2020

CUMULATIVE SUPPLEMENT

TO

MISSISSIPPI CODE

1972 ANNOTATED

Issued December 2020

CONTAINING PERMANENT PUBLIC STATUTES OF MISSISSIPPI
ENACTED THROUGH THE 2020 REGULAR SESSION
OF THE LEGISLATURE

PUBLISHED BY AUTHORITY OF
THE LEGISLATURE

SUPPLEMENTING

Volume 8

Title 27 (Chapters 1 to 17)

(As Revised 2017)

For latest statutes or assistance call 1-800-833-9844

By the Editorial Staff of the Publisher

LexisNexis®

QUESTIONS ABOUT THIS PUBLICATION?

For EDITORIAL QUESTIONS concerning this publication, or REPRINT PERMISSION, please call:
800-833-9844

For CUSTOMER SERVICE ASSISTANCE concerning replacement pages, shipments, billing or other matters, please call:

Customer Service Department at	800-833-9844
Outside the United States and Canada	518-487-3000
FAX	518-487-3584

For INFORMATION ON OTHER MATTHEW BENDER PUBLICATIONS, please call:

Your account manager or	800-223-1940
Outside the United States and Canada	518-487-3000

Copyright © 2020
by
THE STATE OF MISSISSIPPI

All rights reserved.

LexisNexis and the Knowledge Burst logo are registered trademarks, and Michie is a trademark of Reed Elsevier Properties, Inc., used under license. Matthew Bender is a registered trademark of Matthew Bender Properties, Inc.

ISBN 978-0-327-09628-3 (Code set)
ISBN 978-1-5221-2624-9 (Volume 8)

Matthew Bender & Company, Inc.

555 Middle Creek Parkway, Colorado Springs, CO 80921

www.lexisnexis.com

(Pub. 44510)

User's Guide

In order to assist both the legal profession and the layman in obtaining the maximum benefit from the Mississippi Code of 1972 Annotated, a User's Guide has been included in the main volume. This guide contains comments and information on the many features found within the Code intended to increase the usefulness of the Code to the user.

Digitized by the Internet Archive
in 2021 with funding from
Public.Resource.Org

https://archive.org/details/mississippicode08stat_3

PUBLISHER'S FOREWORD

Statutes

The 2020 Supplement to the Mississippi Code of 1972 Annotated reflects the statute law of Mississippi as amended by the Mississippi Legislature through the end of the 2020 Regular Legislative Session.

Annotations

Case annotations are included based on decisions of the State and federal courts in cases arising in Mississippi. Annotations to collateral research references are also included.

To better serve our customers by making our annotations more current, LexisNexis has changed the sources that are read to create annotations for this publication. Rather than waiting for cases to appear in printed reporters, we now read court decisions as they are released by the courts. A consequence of this more current reading of cases, as they are posted online on LexisNexis, is that the most recent cases annotated may not yet have print reporter citations. These will be provided, as they become available, through later publications.

This publication contains annotations taken from decisions of the Mississippi Supreme Court and the Court of Appeals and decisions of the appropriate federal courts. These cases will be printed in the following reporters:

Southern Reporter, 3rd Series
United States Supreme Court Reports
Supreme Court Reporter
United States Supreme Court Reports, Lawyers' Edition, 2nd Series
Federal Reporter, 3rd Series
Federal Supplement, 3rd Series
Federal Rules Decisions
Bankruptcy Reporter

Additionally, annotations have been taken from the following sources:

American Law Reports, 6th Series
American Law Reports, Federal 2nd
Mississippi College Law Review
Mississippi Law Journal

Finally, published opinions of the Attorney General and opinions of the Ethics Commission have been examined for annotations.

Amendment Notes

Amendment notes detail how the new legislation affects existing sections.

Editor's Notes

Editor's notes summarize subject matter and legislative history of repealed sections, provide information as to portions of legislative acts that have not been codified, or explain other pertinent information.

Joint Legislative Committee Notes

Joint Legislative Committee notes explain codification decisions and corrections of Code errors made by the Mississippi Joint Legislative Committee on Compilation, Revision, and Publication of Legislation.

Tables

The Statutory Tables volume adds tables showing disposition of legislative acts through the 2020 Regular Session.

Index

The comprehensive Index to the Mississippi Code of 1972 Annotated is replaced annually, and we welcome customer suggestions. The foreword to the Index explains our indexing principles, suggests guidelines for successful index research, and provides methods for contacting indexers.

Acknowledgements

The publisher wishes to acknowledge the cooperation and assistance rendered by the Mississippi Joint Legislative Committee on Compilation, Revision, and Publication of Legislation, as well as the offices of the Attorney General and Secretary of State, in the preparation of this supplement.

User Information

Visit the LexisNexis website at http://www.lexisnexis.com for an online bookstore, technical support, customer support, and other company information.

For further information or assistance, please call us toll-free at (800) 833-9844, fax us toll-free at (800) 643-1280, e-mail us at customer.support@bender.com, or write to: Mississippi Code Editor, LexisNexis, 555 Middle Creek Parkway, Colorado Springs, CO 80921.

December 2020 LexisNexis

SCHEDULE OF NEW SECTIONS

Added in this Supplement

TITLE 27. TAXATION AND FINANCE

CHAPTER 7. INCOME TAX AND WITHHOLDING

Article 1. Income Tax.

Sec.

27-7-22.39. Income tax credit for voluntary cash contributions to qualifying charitable organizations; separate income tax credit for voluntary cash contributions to qualifying foster care charitable organizations.

27-7-22.40. Job tax credit for certain full-time jobs created in Mississippi by water transportation enterprises [Repealed effective January 1, 2023].

27-7-22.41. Tax credit for certain business enterprises making voluntary cash contributions to eligible charitable organizations.

Article 2. ENDOW MISSISSIPPI PROGRAM

27-7-201. Short title.

27-7-203. Legislative purpose.

27-7-205. Definitions.

27-7-207. Credit against tax imposed by this chapter equal to 25% of qualified contribution to endowed fund at qualified community foundation subject to certain requirements.

27-7-209. Allocation of authorized tax credits; maintenance of records that determine priority for awarding tax credits.

27-7-211. Development of forms, procedures for review and approval of applications for tax credits, and issuance of tax credits; establishment of reporting and monitoring requirements; monitoring and annual certification of approved tax credits.

27-7-213. Tax credits are non-transferable; process for allocation of available tax credits if less than requested; periodic reporting of impact of tax credits.

Article 8. LOCAL GOVERNMENT DEBT COLLECTION SETOFF ACT

27-7-801. Short title.

27-7-803. Legislative purpose.

27-7-805. Definitions.

27-7-807. Remedy to be in addition to others available.

27-7-809. Applicability of article.

27-7-811. Notice to debtor; hearing upon written request; appeals.

27-7-813=cl. Notice to department by claimant government; identification of debtor; determination of debtor's qualification for refund; notice to debtor of setoff.

27-7-815. Priority of multiple claims.

27-7-817. Collection assistance fee.

27-7-819. Transmittal of net proceeds collected to be accompanied by accounting of setoffs; credit of debtor's obligation with net proceeds collected.

27-7-821. Exchange of information necessary to effectuate article; confidentiality of information.

27-7-823. Promulgation of rules and regulations by department and local governments to implement and administer article.

MISSISSIPPI CODE
1972
ANNOTATED

VOLUME EIGHT

TITLE 27.
TAXATION AND FINANCE

Chapter 3.	Department of Revenue.	27-3-1
Chapter 7.	Income Tax and Withholding.	27-7-1
Chapter 10.	Uniform Estate Tax Apportionment Act.	27-10-1
Chapter 13.	Corporation Franchise Tax.	27-13-1
Chapter 15.	Statewide Privilege Taxes.	27-15-1
Chapter 17.	Local Privilege Taxes.	27-17-1

CHAPTER 3.
DEPARTMENT OF REVENUE

Sec.

27-3-52. Counties to have certified appraisal personnel; continuing education; increases in compensation.

§ 27-3-52. Counties to have certified appraisal personnel; continuing education; increases in compensation.

(1) The Department of Revenue shall promulgate rules and regulations setting forth the minimum requirements for which tax assessors and/or their deputy assessors or assistants, appropriate state employees, employees of planning and development districts or other persons may attain certification as an appraiser. The Department of Revenue shall establish and conduct such educational and training programs as may be appropriate to assist such persons in attaining such certification.

(2) Counties having not more than five thousand (5,000) applicants for homestead exemption shall have at least one (1) certified appraiser, and counties having more than five thousand (5,000) applicants for homestead exemption shall have at least two (2) certified appraisers; however, any county may employ any certified appraiser on a part-time basis.

(3) When any tax assessor and/or his deputies or assistants travel outside of their county to attend an appraisal school, seminar or workshop approved by the Department of Revenue, such persons shall receive as reimbursement of expenses of such travel the same mileage and actual and necessary expenses for food, lodging and travel by public carrier or private motor vehicles as is

allowed under Section 25-3-41. However, mileage shall not be authorized when such travel is done by a motor vehicle owned by the county.

(4) The county board of supervisors shall reimburse the assessors, tax collectors and deputies for reasonable and necessary expenses sustained in attending annual conferences, regional conferences, schools and seminars. The Department of Revenue shall have the authority to prescribe forms and to promulgate rules and regulations necessary to implement the provisions of this section. No expenses authorized herein shall be reimbursed unless the expenses have been authorized or approved by an order of the board duly made and spread upon the minutes of such board.

(5) When any tax assessor and/or his deputies or assistants attend and successfully complete all qualifications pursuant to the Mississippi Education and Certification Program and receive the certification level of Track II, Evaluator I, they shall receive an additional Two Thousand Dollars ($2,000.00) annually beginning the next fiscal year after completion.

(6) When any tax assessor and/or his deputies or assistants attend and successfully complete all qualifications pursuant to the Mississippi Education and Certification Program and receive the certification level of Track II, Evaluator II, they shall receive an additional Two Thousand Dollars ($2,000.00) annually beginning the next fiscal year after completion.

(7) When any tax assessor and/or his deputies or assistants attend and successfully complete all qualifications pursuant to the Mississippi Education and Certification Program and receive the certification level of Mississippi Assessment Evaluator (MAE), they shall receive an additional Two Thousand Five Hundred Dollars ($2,500.00) annually beginning the next fiscal year after completion.

(8) When any deputy tax assessor successfully completes all qualifications to become a licensed certified residential real estate appraiser under Sections 73-34-1 through 73-34-63, or completes all qualifications to earn the International Association of Assessing Officers' professional designation of Residential Evaluation Specialist (RES), on the recommendation of the tax assessor, the county board of supervisors may pay, in its discretion, an additional amount not to exceed Three Thousand Dollars ($3,000.00) annually to the deputy beginning the next fiscal year after the completion of such qualifications.

(9) When any deputy tax assessor successfully completes all qualifications to become a licensed certified general real estate appraiser under Sections 73-34-1 through 73-34-63, or completes all qualifications to earn the International Association of Assessing Officers professional designation of Certified Assessment Evaluator (CAE) on the recommendation of the tax assessor, the county board of supervisors may pay, in its discretion, an additional amount not to exceed Five Thousand Dollars ($5,000.00) annually to the deputy beginning the next fiscal year after the completion of such qualifications.

(10) The accumulative total of all educational increases authorized under subsections (5), (6), (7), (8) and (9) of this section shall not exceed Eleven Thousand Five Hundred Dollars ($11,500.00) and shall be paid out of the common county fund from proceeds of the one (1) mill ad valorem tax as provided in Section 27-39-329.

(11) In order to receive the additional annual payment or payments provided for in subsections (5), (6), (7), (8) and (9) of this section, the tax assessor or deputies or assistants who completed the Mississippi Education and Certification Program and were certified as provided herein shall be personally involved in the conduct, administration and/or supervision of the appraisal of the property of the county and in the maintenance of such appraisal.

HISTORY: Laws, 1980, ch. 505, § 12; Laws, 1984, ch. 470; Laws, 1987, ch. 507, § 2; Laws, 1989, ch. 517, § 6; Laws, 1990, ch. 447, § 1; Laws, 1997, ch. 414, § 1; Laws, 2003, ch. 468, § 4; Laws, 2009, ch. 492, § 28, eff from and after July 1, 2010; Laws, 2019, ch. 337, § 1, eff from and after July 1, 2019.

Amendment Notes — The 2019 amendment substituted "Two Thousand Dollars ($2,000.00)" for "One Thousand Dollars ($1,000.00)" in (5) and (6); substituted "Two Thousand Five Hundred Dollars ($2,500.00)" for "One Thousand Five Hundred Dollars ($1,500.00)" in (7); inserted "or completes all qualifications...Residential Evaluation Specialist (RES)" in (8); inserted "or completes all qualifications...Certified Assessment Evaluator (CAE)" in (9); and substituted "Eleven Thousand Five Hundred Dollars ($11,500.00)" for "Eight Thousand Five Hundred Dollars ($8,500.00)" in (10).

§ 27-3-79. Penalties for tax evasion; statute of limitations for tax evasion.

JUDICIAL DECISIONS

1. In general.

Defendant's indictment charged separate and distinct crimes and did not offend the prohibitions against double jeopardy in doing so because accessing a computer was not a necessary element of tax evasion, and the evasion of taxes was not a necessary element of computer fraud. Jones v. State, 284 So. 3d 855, 2019 Miss. App. LEXIS 550 (Miss. Ct. App. 2019).

§ 27-3-85. Mississippi COVID-19 Relief Payment Fund created; definitions; source and use of monies; establishment of program to provide payment to eligible taxpayers.

(1) As used in this section, the following words and phrases shall have the meanings ascribed in this section unless the context clearly indicates otherwise:

(a) "COVID-19" means the Coronavirus Disease 2019.

(b) "Department" means the Mississippi Department of Revenue.

(c) "Eligible taxpayer" means a resident taxpayer, or a taxpayer with a permanent place of business located in the state, that:

(i) Was registered with the department before March 1, 2020, had an Employer Identification Number or Social Security Number before March 1, 2020, and/or had an active department withholding account established before March 1, 2020, which withholding account was not for the purposes of paying household employees or as a home healthcare recipient;

(ii) Had a North American Industry Classification System Code of 311811, 4421, 4422, 4481, 4482, 4483, 4511, 4512, 4531, 4532, 4533, 4539,

487210, 488990, 5121, 5322, 541920, 541921, 561499, 561510, 561920, 6116, 6244, 7111, 7112, 7113, 711410, 7131, 7139, 7223, 7224, 7225 or 8121, before March 1, 2020, and was engaged as an active business in such activity before March 1, 2020;

(iii) Was subject to any COVID-19 related state, municipal and/or county required business closure or voluntary closure;

(iv) Filed Mississippi taxes for tax year 2018 or 2019, or, for an eligible business formed on or after January 1, 2020, intends to file Mississippi taxes for tax year 2020, unless exempt under Section 27-7-29, Section 27-13-63 or other applicable provision of law;

(v) Had no more than fifty (50) full-time equivalent employees as of March 1, 2020; and

(vi) Is not a subsidiary of a business with more than fifty (50) full-time equivalent employees, is not part of a larger business enterprise with more than fifty (50) full-time equivalent employees and is not owned by a business with more than fifty (50) full-time equivalent employees.

(2)(a) There is hereby created in the State Treasury a special fund to be designated as the "Mississippi COVID-19 Relief Payment Fund," which shall consist of funds made available by the Legislature in any manner and funds from any other source designated for deposit into such fund. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any investment earnings or interest earned on amounts in the fund shall be deposited to the credit of the fund. Monies in the fund shall be used for the purpose of providing payments to eligible taxpayers as provided in this section. Monies in the fund shall be administered and disbursed by the Department of Finance and Administration in compliance with the guidelines, guidance, rules, regulations and/or other criteria, as may be amended from time to time, of the United States Department of the Treasury regarding the use of monies from the Coronavirus Relief Fund established by the Coronavirus Aid, Relief, and Economic Security Act.

(b) The department shall establish a program to provide a payment of Two Thousand Dollars ($2,000.00) to each eligible taxpayer. The department may coordinate with various professional licensing boards and other regulatory entities and agencies for the purpose of identifying eligible taxpayers as defined herein and compile a report of eligible taxpayers. The department shall certify the report to the Department of Finance and Administration, which shall disburse the payments authorized under this section to eligible taxpayers.

(c) To effectuate the purposes of this section, any office, division, board, bureau, committee, institution or agency of the state, or any political subdivision thereof, shall, at the request of the department, provide the employees, facilities, assistance, information and data needed to enable the department to carry out its duties.

HISTORY: Laws, 2020, ch. 303, § 4, eff from and after passage (approved May

20, 2020); Laws, 2020, ch. 494, § 1, eff from and after passage (became law without the Governor's signature on August 18, 2020); Laws, 2020, ch. 502, § 1, eff from and after passage (became law without the Governor's signature on October 9, 2020).

Joint Legislative Committee Note — Section 4 of Chapter 303, Laws of 2020, effective from and after passage (approved May 20, 2020), added this section. Section 1 of Chapter 494, Laws of 2020, effective from and after passage (became law without the Governor's signature on August 18, 2020), amended this section. Section 1 of Chapter 502, Laws of 2020, effective from and after passage (became law without the Governor's signature on October 9, 2020), also amended this section. As set out above, this section reflects the language of Section 1 of Chapter 502, Laws of 2020, which contains language that specifically provides that it supersedes § 27-3-85 as added by Chapter 303 and amended by Chapter 494, Laws of 2020.

Editor's Note — Laws of 2020, ch. 303, § 2, effective May 20, 2020, as amended by Laws of 2020, ch. 494, § 1, effective August 18, 2020, provides:

"SECTION 2. During fiscal years 2020 and 2021, the Department of Finance and Administration shall have the authority to receive, budget and escalate federal funds in the DFA CARES ACT COVID-19 Fund (Fund Number 6820113000) in an amount not to exceed Fifty Million Dollars ($50,000,000. 00) for defraying expenses incurred by any state agency, department or institution for the purposes provided under the Coronavirus Relief Fund, Section 5001 of the federal Coronavirus Aid, Relief, and Economic Security Act (P.L. 116-136)."

Laws of 2020, ch. 303, § 3, as amended by Laws of 2020, ch. 494, § 1, effective August 18, 2020, provides:

"SECTION 3.The Legislature intends to provide economic support to eligible Mississippi businesses for costs incurred in connection with the Coronavirus Disease 2019 (COVID-19), including business interruption caused by forced closures or restricted operations resulting from voluntary closures instituted to promote social distancing measures, decreased customer demand, cleaning or disinfection, and provision of personal protective equipment. Eligible expenses shall not include any damage paid by business interruption insurance or disallowed by Section 5001 of the Coronavirus Aid, Relief, and Economic Security (CARES) Act or any guidance or regulation issued by the United States Department of the Treasury in conformity therewith.

"In order to expedite payment to businesses in need of economic support due to required or voluntary closures related to COVID-19, while minimizing administrative costs and delays, the Legislature finds that a direct payment of Two Thousand Dollars ($2,000.00) per business is a necessary cost, as provided for in Section 4 of this act. This payment is specifically to compensate these businesses for an initial compliance with the Governor's State of Emergency COVID-19 Proclamation issued on March 14, 2020. As such, this payment is not related to and is separate and distinct from any eligible expense that is reimbursable from the Back to Business Program. The Legislature finds further that an application process is warranted for the provision of additional compensation, whereby eligible businesses not wishing to itemize their expenses may receive, subject to approval, a base payment of Three Thousand Five Hundred Dollars ($3,500.00) plus Five Hundred Dollars ($500.00) per full-time equivalent employee as a reasonable estimate of their costs incurred, as provided for in Sections 5 through 10 of this act."

Laws of 2020, ch. 303, § 12, as amended by Laws of 2020, ch. 494, § 1, effective August 18, 2020, provides:

"SECTION 12. If any section, paragraph, sentence, clause, phrase or any part of this act is declared to be in conflict with federal law, or if for any reason is declared to be invalid or of no effect, the remaining sections, paragraphs, sentences, clauses, phrases or parts thereof shall be in no manner affected thereby but shall remain in full force and effect. "

Laws of 2020, ch. 494, § 2, effective August 18, 2020, provides:

"SECTION 2. All changes made in this act to Senate Bill No. 2772, 2020 Regular Session [Chapter 303, Laws of 2020], shall be retroactive to May 20, 2020."

Amendment Notes — The first 2020 amendment (ch. 494), effective August 18, 2020, in (1)(c)(ii), inserted "311811," "487210," "7113," and "7223, 7224."

The second 2020 amendment (ch. 502), effective October 9, 2020, in (1)(c)(ii), inserted "488990," "5322, 541920, 541921, 561499, 561510, 561920," and "711410"; and in (2)(a), deleted the former last sentence, which read: "If on November 1, 2020, there are unobligated monies in the fund, the Governor shall have the discretion to transfer monies to another state agency to be used for eligible expenditures pursuant to the Coronavirus Aid, Relief, and Economic Security (CARES) Act."

Federal Aspects — Coronavirus Aid, Relief, and Economic Security Act (CARES Act), see 116 P.L. 136, 134 Stat. 281.

CHAPTER 7.

INCOME TAX AND WITHHOLDING

Article 1.	Income Tax.	27-7-1
Article 2.	Endow Mississippi Program.	27-7-201
Article 7.	Setoff Against Tax Refund for Debt Owed on Default on Educational Loans.	27-7-701
Article 8.	Local Government Debt Collection Setoff Act.	27-7-801

ARTICLE 1.

INCOME TAX.

Sec.

27-7-15.	Gross income defined.
27-7-21.	Exemptions allowed.
27-7-22.25.	Income tax credit for utilization of airport facilities at public airports for export or import of cargo [Repealed effective July 1, 2022].
27-7-22.31.	Income tax credit for certain costs and expenses in rehabilitating eligible property certified as a historic structure or structure in a certified historic district; recapture of credit; applicability of section.
27-7-22.32.	Income tax credit for certain qualified adoption expenses.
27-7-22.36.	Job tax credit for enterprises owning or operating an upholstered household furniture manufacturing facility for each full-time employee employed in new cut and sew job [Repealed effective January 1, 2022].
27-7-22.39.	Income tax credit for voluntary cash contributions to qualifying charitable organizations; separate income tax credit for voluntary cash contributions to qualifying foster care charitable organizations [Repealed effective January 1, 2025].
27-7-22.40.	Job tax credit for certain full-time jobs created in Mississippi by water transportation enterprises [Repealed effective January 1, 2023].
27-7-22.41.	Tax credit for certain business enterprises making voluntary cash contributions to eligible charitable organizations.
27-7-23.	Net income of nonresident and foreign taxpayers.
27-7-24.9.	Allocation and apportionment of income of major medical laboratory service business with taxable activities within and without state.
27-7-39.	Information at source.
27-7-83.	Confidentiality of reports and returns; release of certain information under certain circumstances.

Sec.
27-7-107. Repealed.
27-7-109. Deductions for payments paid with funds received under Paycheck Protection Program; when allowed.

§ 27-7-5. Imposition of the tax.

Cross References — Tax credits against taxes imposed by this chapter, see §§ 27-7-22.3 through 27-7-22.40.

§ 27-7-15. Gross income defined.

(1) For the purposes of this article, except as otherwise provided, the term "gross income" means and includes the income of a taxpayer derived from salaries, wages, fees or compensation for service, of whatever kind and in whatever form paid, including income from governmental agencies and subdivisions thereof; or from professions, vocations, trades, businesses, commerce or sales, or renting or dealing in property, or reacquired property; also from annuities, interest, rents, dividends, securities, insurance premiums, reinsurance premiums, considerations for supplemental insurance contracts, or the transaction of any business carried on for gain or profit, or gains, or profits, and income derived from any source whatever and in whatever form paid. The amount of all such items of income shall be included in the gross income for the taxable year in which received by the taxpayer. The amount by which an eligible employee's salary is reduced pursuant to a salary reduction agreement authorized under Section 25-17-5 shall be excluded from the term "gross income" within the meaning of this article.

(2) In determining gross income for the purpose of this section, the following, under regulations prescribed by the commissioner, shall be applicable:

(a) **Dealers in property.** Federal rules, regulations and revenue procedures shall be followed with respect to installment sales unless a transaction results in the shifting of income from inside the state to outside the state.

(b) **Casual sales of property.**

(i) Prior to January 1, 2001, federal rules, regulations and revenue procedures shall be followed with respect to installment sales except they shall be applied and administered as if H.R. 3594, the Installment Tax Correction Act of 2000 of the 106th Congress, had not been enacted. This provision will generally affect taxpayers, reporting on the accrual method of accounting, entering into installment note agreements on or after December 17, 1999. Any gain or profit resulting from the casual sale of property will be recognized in the year of sale.

(ii) From and after January 1, 2001, federal rules, regulations and revenue procedures shall be followed with respect to installment sales except as provided in this subparagraph (ii). Gain or profit from the casual sale of property shall be recognized in the year of sale. When a taxpayer

recognizes gain on the casual sale of property in which the gain is deferred for federal income tax purposes, a taxpayer may elect to defer the payment of tax resulting from the gain as allowed and to the extent provided under regulations prescribed by the commissioner. If the payment of the tax is made on a deferred basis, the tax shall be computed based on the applicable rate for the income reported in the year the payment is made. Except as otherwise provided in subparagraph (iii) of this paragraph (b), deferring the payment of the tax shall not affect the liability for the tax. If at any time the installment note is sold, contributed, transferred or disposed of in any manner and for any purpose by the original note holder, or the original note holder is merged, liquidated, dissolved or withdrawn from this state, then all deferred tax payments under this section shall immediately become due and payable.

(iii) If the selling price of the property is reduced by any alteration in the terms of an installment note, including default by the purchaser, the gain to be recognized is recomputed based on the adjusted selling price in the same manner as for federal income tax purposes. The tax on this amount, less the previously paid tax on the recognized gain, is payable over the period of the remaining installments. If the tax on the previously recognized gain has been paid in full to this state, the return on which the payment was made may be amended for this purpose only. The statute of limitations in Section 27-7-49 shall not bar an amended return for this purpose.

(c) **Reserves of insurance companies.** In the case of insurance companies, any amounts in excess of the legally required reserves shall be included as gross income.

(d) **Affiliated companies or persons.** As regards sales, exchanges or payments for services from one to another of affiliated companies or persons or under other circumstances where the relation between the buyer and seller is such that gross proceeds from the sale or the value of the exchange or the payment for services are not indicative of the true value of the subject matter of the sale, exchange or payment for services, the commissioner shall prescribe uniform and equitable rules for determining the true value of the gross income, gross sales, exchanges or payment for services, or require consolidated returns of affiliates.

(e) **Alimony and separate maintenance payments.** The federal rules, regulations and revenue procedures in determining the deductibility and taxability of alimony payments shall be followed in this state.

(f) **Reimbursement for expenses of moving.** There shall be included in gross income (as compensation for services) any amount received or accrued, directly or indirectly, by an individual as a payment for or reimbursement of expenses of moving from one (1) residence to another residence which is attributable to employment or self-employment.

(3) In the case of taxpayers other than residents, gross income includes gross income from sources within this state.

(4) The words "gross income" do not include the following items of income which shall be exempt from taxation under this article:

(a) The proceeds of life insurance policies and contracts paid upon the death of the insured. However, the income from the proceeds of such policies or contracts shall be included in the gross income.

(b) The amount received by the insured as a return of premium or premiums paid by him under life insurance policies, endowment, or annuity contracts, either during the term or at maturity or upon surrender of the contract.

(c) The value of property acquired by gift, bequest, devise or descent, but the income from such property shall be included in the gross income.

(d) Interest upon the obligations of the United States or its possessions, or securities issued under the provisions of the Federal Farm Loan Act of 1916, or bonds issued by the War Finance Corporation, or obligations of the State of Mississippi or political subdivisions thereof.

(e) The amounts received through accident or health insurance as compensation for personal injuries or sickness, plus the amount of any damages received for such injuries or such sickness or injuries, or through the War Risk Insurance Act, or any law for the benefit or relief of injured or disabled members of the military or naval forces of the United States.

(f) Income received by any religious denomination or by any institution or trust for moral or mental improvements, religious, Bible, tract, charitable, benevolent, fraternal, missionary, hospital, infirmary, educational, scientific, literary, library, patriotic, historical or cemetery purposes or for two (2) or more of such purposes, if such income be used exclusively for carrying out one or more of such purposes.

(g) Income received by a domestic corporation which is "taxable in another state" as this term is defined in this article, derived from business activity conducted outside this state. Domestic corporations taxable both within and without the state shall determine Mississippi income on the same basis as provided for foreign corporations under the provisions of this article.

(h) In case of insurance companies, there shall be excluded from gross income such portion of actual premiums received from an individual policyholder as is paid back or credited to or treated as an abatement of premiums of such policyholder within the taxable year.

(i) Income from dividends that has already borne a tax as dividend income under the provisions of this article, when such dividends may be specifically identified in the possession of the recipient.

(j) Amounts paid by the United States to a person as added compensation for hazardous duty pay as a member of the Armed Forces of the United States in a combat zone designated by Executive Order of the President of the United States.

(k) Amounts received as retirement allowances, pensions, annuities or optional retirement allowances paid under the federal Social Security Act, the Railroad Retirement Act, the Federal Civil Service Retirement Act, or any other retirement system of the United States government, retirement allowances paid under the Mississippi Public Employees' Retirement Sys-

tem, Mississippi Highway Safety Patrol Retirement System or any other retirement system of the State of Mississippi or any political subdivision thereof. The exemption allowed under this paragraph (k) shall be available to the spouse or other beneficiary at the death of the primary retiree.

(*l*) Amounts received as retirement allowances, pensions, annuities or optional retirement allowances paid by any public or governmental retirement system not designated in paragraph (k) or any private retirement system or plan of which the recipient was a member at any time during the period of his employment. Amounts received as a distribution under a Roth Individual Retirement Account shall be treated in the same manner as provided under the Internal Revenue Code of 1986, as amended. The exemption allowed under this paragraph (l) shall be available to the spouse or other beneficiary at the death of the primary retiree.

(m) National Guard or Reserve Forces of the United States compensation not to exceed the aggregate sum of Five Thousand Dollars ($5,000.00) for any taxable year through the 2005 taxable year, and not to exceed the aggregate sum of Fifteen Thousand Dollars ($15,000.00) for any taxable year thereafter.

(n) Compensation received for active service as a member below the grade of commissioned officer and so much of the compensation as does not exceed the maximum enlisted amount received for active service as a commissioned officer in the Armed Forces of the United States for any month during any part of which such members of the Armed Forces (i) served in a combat zone as designated by Executive Order of the President of the United States or a qualified hazardous duty area as defined by federal law, or both; or (ii) was hospitalized as a result of wounds, disease or injury incurred while serving in such combat zone. For the purposes of this paragraph (n), the term "maximum enlisted amount" means and has the same definition as that term has in 26 USCS 112.

(o) The proceeds received from federal and state forestry incentive programs.

(p) The amount representing the difference between the increase of gross income derived from sales for export outside the United States as compared to the preceding tax year wherein gross income from export sales was highest, and the net increase in expenses attributable to such increased exports. In the absence of direct accounting, the ratio of net profits to total sales may be applied to the increase in export sales. This paragraph (p) shall only apply to businesses located in this state engaging in the international export of Mississippi goods and services. Such goods or services shall have at least fifty percent (50%) of value added at a location in Mississippi.

(q) Amounts paid by the federal government for the construction of soil conservation systems as required by a conservation plan adopted pursuant to 16 USCS 3801 et seq.

(r) The amount deposited in a medical savings account, and any interest accrued thereon, that is a part of a medical savings account program as specified in the Medical Savings Account Act under Sections 71-9-1

through 71-9-9; provided, however, that any amount withdrawn from such account for purposes other than paying eligible medical expense or to procure health coverage shall be included in gross income.

(s) Amounts paid by the Mississippi Soil and Water Conservation Commission from the Mississippi Soil and Water Cost-Share Program for the installation of water quality best management practices.

(t) Dividends received by a holding corporation, as defined in Section 27-13-1, from a subsidiary corporation, as defined in Section 27-13-1.

(u) Interest, dividends, gains or income of any kind on any account in the Mississippi Affordable College Savings Trust Fund, as established in Sections 37-155-101 through 37-155-125, to the extent that such amounts remain on deposit in the MACS Trust Fund or are withdrawn pursuant to a qualified withdrawal, as defined in Section 37-155-105.

(v) Interest, dividends or gains accruing on the payments made pursuant to a prepaid tuition contract, as provided for in Section 37-155-17.

(w) Income resulting from transactions with a related member where the related member subject to tax under this chapter was required to, and did in fact, add back the expense of such transactions as required by Section 27-7-17(2). Under no circumstances may the exclusion from income exceed the deduction add-back of the related member, nor shall the exclusion apply to any income otherwise excluded under this chapter.

(x) Amounts that are subject to the tax levied pursuant to Section 27-7-901, and are paid to patrons by gaming establishments licensed under the Mississippi Gaming Control Act.

(y) Amounts that are subject to the tax levied pursuant to Section 27-7-903, and are paid to patrons by gaming establishments not licensed under the Mississippi Gaming Control Act.

(z) Interest, dividends, gains or income of any kind on any account in a qualified tuition program and amounts received as distributions under a qualified tuition program shall be treated in the same manner as provided under the United States Internal Revenue Code, as amended. For the purposes of this paragraph (z), the term "qualified tuition program" means and has the same definition as that term has in 26 USCS 529.

(aa) The amount deposited in a health savings account, and any interest accrued thereon, that is a part of a health savings account program as specified in the Health Savings Accounts Act created in Sections 83-62-1 through 83-62-9; however, any amount withdrawn from such account for purposes other than paying qualified medical expenses or to procure health coverage shall be included in gross income, except as otherwise provided by Sections 83-62-7 and 83-62-9.

(bb) Amounts received as qualified disaster relief payments shall be treated in the same manner as provided under the United States Internal Revenue Code, as amended.

(cc) Amounts received as a "qualified Hurricane Katrina distribution" as defined in the United States Internal Revenue Code, as amended.

(dd) Amounts received by an individual which may be excluded from income as foreign earned income for federal income tax purposes.

(ee) Amounts received by a qualified individual, directly or indirectly, from an employer or nonprofit housing organization that are qualified housing expenses associated with an employer-assisted housing program. For purposes of this paragraph (ee):

(i) "Qualified individual" means any individual whose household income does not exceed one hundred twenty percent (120%) of the area median gross income (as defined by the United States Department of Housing and Urban Development), adjusted for household size, for the area in which the housing is located.

(ii) "Nonprofit housing organization" means an organization that is organized as a not-for-profit organization under the laws of this state or another state and has as one of its purposes:

1. Homeownership education or counseling;

2. The development of affordable housing; or

3. The development or administration of employer-assisted housing programs.

(iii) "Employer-assisted housing program" means a separate written plan of any employer (including, without limitation, tax-exempt organizations and public employers) for the exclusive benefit of the employer's employees to pay qualified housing expenses to assist the employer's employees in securing affordable housing.

(iv) "Qualified housing expenses" means:

1. With respect to rental assistance, an amount not to exceed Two Thousand Dollars ($2,000.00) paid for the purpose of assisting employees with security deposits and rental subsidies; and

2. With respect to homeownership assistance, an amount not to exceed the lesser of Ten Thousand Dollars ($10,000.00) or six percent (6%) of the purchase price of the employee's principal residence that is paid for the purpose of assisting employees with down payments, payment of closing costs, reduced interest mortgages, mortgage guarantee programs, mortgage forgiveness programs, equity contribution programs, or contributions to homebuyer education and/or homeownership counseling of eligible employees.

(ff) For the 2010 taxable year and any taxable year thereafter, amounts converted in accordance with the United States Internal Revenue Code, as amended, from a traditional Individual Retirement Account to a Roth Individual Retirement Account. The exemption allowed under this paragraph (ff) shall be available to the spouse or other beneficiary at the death of the primary retiree.

(gg) Amounts received for the performance of disaster or emergency-related work as defined in Section 27-113-5.

(hh) The amount deposited in a catastrophe savings account established under Sections 27-7-1001 through 27-7-1007, interest income earned on the catastrophe savings account, and distributions from the catastrophe savings account; however, any amount withdrawn from a catastrophe savings account for purposes other than paying qualified catastrophe ex-

penses shall be included in gross income, except as otherwise provided by Sections 27-7-1001 through 27-7-1007.

(ii) Interest, dividends, gains or income of any kind on any account in the Mississippi Achieving a Better Life Experience (ABLE) Trust Fund, as established in Chapter 28, Title 43, to the extent that such amounts remain on deposit in the ABLE Trust Fund or are withdrawn pursuant to a qualified withdrawal, as defined in Section 43-28-11.

(jj) Subject to the limitations provided under Section 27-7-1103, amounts deposited into a first-time homebuyer savings account and any interest or other income earned attributable to an account and monies or funds withdrawn or distributed from an account for the payment of eligible costs by or on behalf of a qualified beneficiary; however, any monies or funds withdrawn or distributed from a first-time homebuyer savings account for any purpose other than the payment of eligible costs by or on behalf of a qualified beneficiary shall be included in gross income. For the purpose of this paragraph (jj), the terms "first-time homebuyer savings account," "eligible costs" and "qualified beneficiary" mean and have the same definitions as such terms have in Section 27-7-1101.

(kk) Amounts paid by an agricultural disaster program as compensation to an agricultural producer, cattle farmer or cattle rancher who has suffered a loss as the result of a disaster or emergency, including, but not limited to, the following United States Department of Agriculture programs:

(i) Livestock Forage Disaster Program;

(ii) Livestock Indemnity Program;

(iii) Emergency Assistance for Livestock, Honey Bees and Farm-raised Fish Program;

(iv) Emergency Conservation Program;

(v) Noninsured Crop Disaster Assistance Program;

(vi) Pasture, Rangeland, Forage Pilot Insurance Program;

(vii) Annual Forage Pilot Program;

(viii) Livestock Risk Protection Insurance Program; and

(ix) Livestock Gross Margin Insurance Plan.

(*ll*) Amounts received as advances and/or grants under the federal Coronavirus Aid, Relief, and Economic Security Act.

(mm) Any and all cancelled indebtedness provided for under the Coronavirus Aid, Relief, and Economic Security Act.

(nn) Amounts received as payments under Section 27-3-85.

(oo) Amounts received as grants under the 2020 COVID-19 Mississippi Business Assistance Act.

(5) Prisoners of war, missing in action-taxable status.

(a) **Members of the Armed Forces.** Gross income does not include compensation received for active service as a member of the Armed Forces of the United States for any month during any part of which such member is in a missing status, as defined in paragraph (d) of this subsection, during the Vietnam Conflict as a result of such conflict.

(b) **Civilian employees.** Gross income does not include compensation received for active service as an employee for any month during any part of

which such employee is in a missing status during the Vietnam Conflict as a result of such conflict.

(c) **Period of conflict.** For the purpose of this subsection, the Vietnam Conflict began February 28, 1961, and ends on the date designated by the President by Executive Order as the date of the termination of combatant activities in Vietnam. For the purpose of this subsection, an individual is in a missing status as a result of the Vietnam Conflict if immediately before such status began he was performing service in Vietnam or was performing service in Southeast Asia in direct support of military operations in Vietnam. "Southeast Asia," as used in this paragraph, is defined to include Cambodia, Laos, Thailand and waters adjacent thereto.

(d) "Missing status" means the status of an employee or member of the Armed Forces who is in active service and is officially carried or determined to be absent in a status of (i) missing; (ii) missing in action; (iii) interned in a foreign country; (iv) captured, beleaguered or besieged by a hostile force; or (v) detained in a foreign country against his will; but does not include the status of an employee or member of the Armed Forces for a period during which he is officially determined to be absent from his post of duty without authority.

(e) "Active service" means active federal service by an employee or member of the Armed Forces of the United States in an active duty status.

(f) "Employee" means one who is a citizen or national of the United States or an alien admitted to the United States for permanent residence and is a resident of the State of Mississippi and is employed in or under a federal executive agency or department of the Armed Forces.

(g) "Compensation" means (i) basic pay; (ii) special pay; (iii) incentive pay; (iv) basic allowance for quarters; (v) basic allowance for subsistence; and (vi) station per diem allowances for not more than ninety (90) days.

(h) If refund or credit of any overpayment of tax for any taxable year resulting from the application of this subsection (5) is prevented by the operation of any law or rule of law, such refund or credit of such overpayment of tax may, nevertheless, be made or allowed if claim therefor is filed with the Department of Revenue within three (3) years after the date of the enactment of this subsection.

(i) The provisions of this subsection shall be effective for taxable years ending on or after February 28, 1961.

(6) A shareholder of an S corporation, as defined in Section 27-8-3(1)(g), shall take into account the income, loss, deduction or credit of the S corporation only to the extent provided in Section 27-8-7(2).

HISTORY: Codes, 1942, § 9220-08; Laws, 1934, ch. 120; Laws, 1936, ch. 151; Laws, 1940, ch. 123; Laws, 1942, chs. 125, 129; Laws, 1944, ch. 122; Laws, 1948, ch. 464, § 1; Laws, 1952, ch. 402, § 7; Laws, 1954, ch. 366; Laws, 1966, ch. 628, § 2; Laws, 1973, ch. 504, § 1; Laws, 1978, ch. 475, § 1; Laws, 1982, ch. 489, § 1; Laws, 1984, ch. 393, § 8; Laws, 1986, ch. 393, § 1; Laws, 1986, ch. 513, § 8; brought forward without change, Laws, 1987, ch. 345, § 8; Laws, 1987, ch. 423, § 1; Laws, 1990, ch. 523, § 5; Laws, 1993, ch. 377, § 1; Laws, 1993, ch. 456, § 13; Laws,

1993, ch. 523, § 1; Laws, 1994, ch. 468, § 6; Laws, 1997, ch. 606, § 8; Laws, 1998, ch. 448, § 1; Laws, 1999, ch. 446, § 1; Laws, 2000, ch. 473, § 16; Laws, 2001, ch. 452, § 2; Laws, 2001, ch. 586, § 2; Laws, 2002, ch. 516, § 2; Laws, 2003, ch. 319, § 2; Laws, 2004, ch. 500, § 1; Laws, 2005, ch. 443, § 1; Laws, 2005, ch. 484, § 6; Laws, 2005, 5th Ex Sess, ch. 22, § 1; Laws, 2006, ch. 497, § 1; Laws, 2007, ch. 443, § 1; Laws, 2008, ch. 489, § 1; Laws, 2009, ch. 349, § 1; Laws, 2010, ch. 430, § 1; Laws, 2015, ch. 420, § 6; Laws, 2015, ch. 457, § 5; Laws, 2017, ch. 350, § 15; Laws, 2017, ch. 376, § 3, eff from and after March 20, 2017; Laws, 2018, ch. 415, § 1, eff from and after January 1, 2018; Laws, 2020, ch. 421, § 1, eff from and after January 1, 2020.

Editor's Notes — Laws of 2018, ch. 415, § 2, effective January 1, 2018, provides:

"Nothing in this act shall affect or defeat any claim, assessment, appeal, suit, right or cause of action for taxes due or accrued under the income tax laws before the date on which this act becomes effective, whether such claims, assessments, appeals, suits or actions have been begun before the date on which this act becomes effective or are begun thereafter; and the provisions of the income tax laws are expressly continued in full force, effect and operation for the purpose of the assessment, collection and enrollment of liens for any taxes due or accrued and the execution of any warrant under such laws before the date on which this act becomes effective, and for the imposition of any penalties, forfeitures or claims for failure to comply with such laws."

Laws of 2020, ch. 421, § 2, effective January 1, 2020, provides:

"SECTION 2. Nothing in this act shall affect or defeat any claim, assessment, appeal, suit, right or cause of action for taxes due or accrued under the income tax laws before the date on which this act becomes effective, whether such claims, assessments, appeals, suits or actions have been begun before the date on which this act becomes effective or are begun thereafter; and the provisions of the income tax laws are expressly continued in full force, effect and operation for the purpose of the assessment, collection and enrollment of liens for any taxes due or accrued and the execution of any warrant under such laws before the date on which this act becomes effective, and for the imposition of any penalties, forfeitures or claims for failure to comply with such laws."

Amendment Notes — The 2018 amendment, effective January 1, 2018, added (4)(kk).

The 2020 amendment, effective January 1, 2020, added (4)(*ll*) through (oo).

§ 27-7-21. Exemptions allowed.

(a) **Allowance of deductions.** In the case of a resident individual, the exemptions provided by this section, as applicable to individuals, shall be allowed as deductions in computing taxable income.

(b) **Single individuals.** In the case of a single individual, a personal exemption of Five Thousand Two Hundred Fifty Dollars ($5,250.00) for the 1979 and 1980 calendar years and Six Thousand Dollars ($6,000.00) for each calendar year thereafter.

(c) **Married individuals.** In the case of married individuals living together, a joint personal exemption of Eight Thousand Dollars ($8,000.00) for the 1979 and 1980 calendar years and Nine Thousand Five Hundred Dollars ($9,500.00) for the 1981 through 1997 calendar years, Ten Thousand Dollars ($10,000.00) for the calendar year 1998, Eleven Thousand Dollars ($11,000.00) for the calendar year 1999, and Twelve Thousand Dollars ($12,000.00) for each calendar year thereafter. A husband and wife living together shall receive but one (1) personal exemption in the amounts provided for in this subsection for each calendar year against their aggregate income.

(d) **Head of family individuals.** In the case of a head of family individual, a personal exemption of Eight Thousand Dollars ($8,000.00) for the 1979 and 1980 calendar years and Nine Thousand Five Hundred Dollars ($9,500.00) for each calendar year thereafter. The term "head of family" means an individual who is single, or married but not living with his spouse for the entire taxable year, who maintains a household which constitutes the principal place of abode of himself and one or more individuals who are dependents under the provisions of Section 152(a) of the Internal Revenue Code of 1954, as amended. The head of family individual shall be entitled to the additional dependent exemption as provided in subsection (e) of this section only to the extent of dependents in excess of the one (1) dependent needed to qualify as head of family.

(e) **Additional exemption for dependents.** In the case of any individual having a dependent, other than husband or wife, an additional personal exemption of One Thousand Five Hundred Dollars ($1,500.00) for each such dependent, except as otherwise provided in subsection (d) of this section. The term "dependent" as used in this subsection shall mean any person or individual who qualifies as a dependent under the provisions of Section 152, Internal Revenue Code of 1954, as amended.

(f) **Additional exemption for taxpayer or spouse aged sixty-five (65) or more.** In the case of any taxpayer or the spouse of the taxpayer who has attained the age of sixty-five (65) before the close of his taxable year, an additional exemption of One Thousand Five Hundred Dollars ($1,500.00).

(g) **Additional exemption for blindness of taxpayer or spouse.** In the case of any taxpayer or the spouse of the taxpayer who is blind at the close of the taxable year, an additional exemption of One Thousand Five Hundred Dollars ($1,500.00). For the purpose of this subsection, an individual is blind only if his central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or if his visual acuity is greater than 20/200 but is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than twenty (20) degrees.

(h) **Husband and wife—claiming exemptions.** In the case of husband and wife living together and filing combined returns, the personal and additional exemptions authorized and allowed by this section may be taken by either, or divided between them in any manner they may choose. If the husband and wife fail to choose, the commissioner shall divide the exemptions between husband and wife in an equitable manner. In the case of a husband and wife filing separate returns, the personal and additional exemptions authorized and allowed by this section shall be divided equally between the spouses.

(i) **Nonresidents.** A nonresident individual shall be allowed the same personal and additional exemptions as are authorized for resident individuals in subsection (a) of this section; however, the nonresident individual is entitled only to that proportion of the personal and additional exemptions as his net income from sources within the State of Mississippi bears to his total or entire net income from all sources.

A nonresident individual who is married and whose spouse has income from independent sources must declare the joint income of himself and his spouse from sources within and without Mississippi and claim as a personal exemption that proportion of the authorized personal and additional exemptions which the total net income from Mississippi sources bears to the total net income of both spouses from all sources. If both spouses have income from sources within Mississippi and wish to file separate returns, their combined personal and additional exemptions shall be that proration of the exemption which their combined net income from Mississippi sources is of their total combined net income from all sources. The amount of the personal and additional exemptions so computed may be divided between them in any manner they choose.

In the case of married individuals where one (1) spouse is a resident and the other is a nonresident, the personal exemption of the resident individual shall be prorated on the same basis as if both were nonresidents having net income from within and without the State of Mississippi.

For the purpose of this subsection, the term "net income" means gross income less business expenses incurred in the taxpayer's regular trade or business and computed in accordance with the provisions of the Mississippi Income Tax Law.

(j) **Part-year residents.** An individual who is a resident of Mississippi for only a part of his taxable year by reason of either moving into the state or moving from the state shall be allowed the same personal and additional exemptions as authorized for resident individuals in subsection (a) of this section; the part-year resident shall prorate his exemption on the same basis as nonresidents having net income from within and without the state.

(k) **Estates.** In the case of an estate, a specific exemption of Six Hundred Dollars ($600.00).

(*l*) **Trusts.** In the case of a trust which, under its governing instrument, is required to distribute all of its income currently, a specific exemption of Three Hundred Dollars ($300.00). In the case of all other trusts, a specific exemption of One Hundred Dollars ($100.00).

(m) **Corporations, foundations, joint ventures, associations.** In the case of a corporation, foundation, joint venture or association taxable herein, there shall be allowed no specific exemption, except as provided under the Growth and Prosperity Act, Sections 57-113-1 through 57-113-7, and Sections 57-113-21 through 57-113-27.

(n) **Status.** The status on the last day of the taxable year, except in the case of the head of family as provided in subsection (d) of this section, shall determine the right to the exemptions provided in this section; provided, that a taxpayer shall be entitled to such exemptions, otherwise allowable, if the husband or wife or dependent has died during the taxable year.

(o) **Fiscal-year taxpayers.** Individual taxpayers reporting on a fiscal year basis shall prorate their exemptions in a manner established by regulations promulgated by the commissioner.

HISTORY: Codes, 1942, § 9220-11; Laws, 1934, ch. 120; Laws, 1938, ch. 116;

Laws, 1940, ch. 123; Laws, 1944, ch. 124; Laws, 1946, ch. 246, § 1; Laws, 1952, ch. 402, § 10; Laws, 1958, ch. 555; Laws, 1960, ch. 456, § 2; Laws, 1960, ch. 457, § 2; Laws, 1966, ch. 629, § 1; Laws, 1968, ch. 580, § 27; Laws, 1973, ch. 504, § 3; Laws, 1979, ch. 302, § 1; Laws, 1982, ch. 489, § 2; Laws, 1997, ch. 304, § 2; Laws, 2000, 2nd Ex Sess, ch. 1, § 48; Laws, 2010, ch. 533, § 20, eff from and after July 1, 2010; Laws, 2019, ch. 396, § 4, eff from and after July 1, 2019.

Amendment Notes — The 2019 amendment added "and Sections 57-113-21 through 57-113-27" at the end of (m) and made a related change.

§ 27-7-22.7. Income tax credit for charges for using certain public port facilities [Repealed effective December 31, 2022].

HISTORY: Laws, 1994, ch. 492, § 1; reenacted and amended, Laws, 1998, ch. 548, § 1; reenacted and amended, Laws, 2002, ch. 537, § 1; reenacted without change, Laws, 2005, ch. 457, § 1; reenacted without change, Laws, 2009, ch. 322, § 1; reenacted without change, Laws 2012, ch. 377, § 1; reenacted and amended, Laws, 2016, ch. 335, § 1, eff from and after July 1, 2016; reenacted without change, Laws, 2019, ch. 321, § 1, eff from and after July 1, 2019.

Editor's Notes — This section was reenacted without change by Laws of 2019, ch. 321, § 1, effective from and after July 1, 2019. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Laws of 1994, ch. 492, § 4, as amended by Laws of 1998, ch. 548, § 3, as amended by Laws of 2002, ch. 537, § 3, as amended by Laws of 2005, ch. 457, § 3, as amended by Laws of 2009, ch. 322, § 3, as amended by Laws of 2012, ch. 377, § 3, as amended by Laws of 2016, ch. 335, § 3, and as amended by Laws of 2019, ch. 321, § 3, provides:

"SECTION 4. This act shall take effect and be in force from and after January 1, 1994, and shall stand repealed from and after December 31, 2022."

Amendment Notes — The 2019 amendment reenacted the section without change.

§ 27-7-22.9. Income tax credit for charges for using certain public port facilities; annual report regarding impact of § 27-7-22.7 [Repealed effective December 31, 2022].

HISTORY: Laws, 1994, ch. 492, § 2; reenacted without change, Laws, 1998, ch. 548, § 2; reenacted and amended, Laws, 2002, ch. 537, § 2; reenacted without change, Laws, 2005, ch. 457, § 2; reenacted without change, Laws, 2009, ch. 322; reenacted without change, Laws, 2012, ch. 377, § 2; reenacted and amended, Laws, 2016, ch. 335, § 2, eff from and after July 1, 2016; reenacted without change, Laws, 2019, ch. 321, § 2, eff from and after July 1, 2019.

Editor's Notes — This section was reenacted without change by Laws of 2019, ch. 321, § 2, effective from and after July 1, 2019. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Laws of 1994, ch. 492, § 4, as amended by Laws of 1998, ch. 548, § 3, as amended by Laws of 2002, ch. 537, § 3, as amended by Laws of 2005, ch. 457, § 3, as amended by Laws of 2009, ch. 322, § 3, as amended by Laws of 2012, ch. 377, § 3, as amended by

Laws of 2016, ch. 335, § 3, and as amended by Laws of 2019, ch. 321, § 3, provides:

"SECTION 4. This act shall take effect and be in force from and after January 1, 1994, and shall stand repealed from and after December 31, 2022."

Amendment Notes — The 2019 amendment reenacted the section without change.

§ 27-7-22.25. Income tax credit for utilization of airport facilities at public airports for export or import of cargo [Repealed effective July 1, 2022].

(1) As used in this section, the term "airport" means an airport established pursuant to Chapters 3 and 5, Title 61, Mississippi Code of 1972.

(2) Subject to the provisions of this section, for any income taxpayer utilizing the facilities at any airport for the export or import of cargo that is unloaded from a carrier at any such airport, a credit against the taxes imposed pursuant to this chapter shall be allowed in the amounts provided in this section. In order to be eligible for the credit authorized under this section, a taxpayer must locate its United States headquarters in Mississippi on or after July 1, 2005, employ at least five (5) new permanent full-time employees who actually work at such headquarters and, after July 1, 2005, invest a minimum of Two Million Dollars ($2,000,000.00), in the aggregate, in real property and/or personal property in Mississippi. For the purposes of this section, "full-time employee" shall mean an employee who works at least thirty-five (35) hours per week.

(3) Except as otherwise provided by subsection (4) of this section, the amount of the credit allowed pursuant to this section shall be the total of the following charges on import or export of cargo paid by the corporation:

(a) Receiving into the airport;

(b) Aircraft marshalling or handling fees; and

(c) Aircraft landing fees.

(4) The credit provided for in this section shall not exceed fifty percent (50%) of the amount of tax imposed upon the taxpayer for the taxable year reduced by the sum of all other credits allowable to such taxpayer under this chapter, except credit for tax payments made by or on behalf of the taxpayer. Any unused portion of the credit may be carried forward for the succeeding five (5) years. The maximum cumulative credit that may be claimed by a taxpayer under this section is limited to One Million Dollars ($1,000,000.00) if the taxpayer employs at least five (5), but not more than twenty-five (25) permanent full-time employees at its headquarters in Mississippi; Two Million Dollars ($2,000,000.00) if the taxpayer employs more than twenty-five (25), but not more than one hundred (100) permanent full-time employees at its headquarters in Mississippi; Three Million Dollars ($3,000,000.00) if the taxpayer employs more than one hundred (100), but not more than two hundred (200) permanent full-time employees at its headquarters in Mississippi; and Four Million Dollars ($4,000,000.00) if the taxpayer employs more than two hundred (200) permanent full-time employees at its headquarters in Mississippi.

(5) To obtain the credit provided for in this section, a taxpayer must provide to the Department of Revenue a statement from the governing

authority of the airport certifying the amount of charges paid by the taxpayer for which a credit is claimed and any other information required by the Department of Revenue.

(6) Any taxpayer who is eligible, before July 1, 2022, for the credit provided for in this section, shall remain eligible for such credit after July 1, 2022, notwithstanding the repeal of this section.

HISTORY: Laws, 2005, ch. 442, § 1; Laws, 2006, ch. 465, § 1; reenacted and amended, Laws, 2007, ch. 519, § 1; reenacted and amended, Laws, 2009, ch. 323, § 1; reenacted and amended, Laws, 2012, ch. 377, § 4; reenacted and amended, Laws, 2016, ch. 335, § 4, eff from and after July 1, 2016; reenacted and amended, Laws, 2019, ch. 321, § 4, eff from and after July 1, 2019.

Editor's Notes — Laws of 2005, ch. 442, § 3, as amended by Laws of 2007, ch. 519, § 3, as amended by Laws of 2009, ch. 323, § 3, as amended by Laws of 2012, ch. 377, § 6, as amended by Laws of 2016, ch. 335, § 6, and as amended by Laws of 2019, ch. 321, § 6, provides as follows:

"SECTION 3. Sections 1 [codified as Section 27-7-22.25] and 2 [codified as Section 27-7-22.26] shall stand repealed from and after July 1, 2022."

Amendment Notes — The 2019 amendment reenacted and amended the section by substituting "July 1, 2022" for "July 1, 2019" twice in (6).

§ 27-7-22.26. Mississippi Development Authority to report annually on the impact of the income tax credit granted in § 27-7-22.25 [Repealed effective July 1, 2022]

HISTORY: Laws, 2005, ch. 442, § 2; reenacted without change, Laws, 2007, ch. 519, § 2; reenacted without change, Laws, 2009, ch. 323, § 2; reenacted without change, Laws, 2012, ch. 377, § 5; reenacted and amended, Laws, 2016, ch. 335, § 5, eff from and after July 1, 2016; reenacted without change, Laws, 2019, ch. 321, § 5, eff from and after July 1, 2019.

Editor's Notes — Laws of 2005, ch. 442, § 3, as amended by Laws of 2007, ch. 519, § 3, as amended by Laws of 2009, ch. 323, § 3, as amended by Laws of 2012, ch. 377, § 6, and as amended by Laws of 2016, ch. 335, § 6, and as amended by Laws of 2019, ch. 321, § 6, provides as follows:

"SECTION 3. Sections 1 [codified as Section 27-7-22.25] and 2 [codified as Section 27-7-22.26] shall stand repealed from and after July 1, 2022."

This section was reenacted without change by Laws of 2019, ch. 321, § 5, effective from and after July 1, 2019. Since the language of the section as it appears in the main volume is unaffected by the reenactment of the section, it is not reprinted in this supplement.

Amendment Notes — The 2019 amendment reenacted the section without change.

§ 27-7-22.31. Income tax credit for certain costs and expenses in rehabilitating eligible property certified as a historic structure or structure in a certified historic district; recapture of credit; applicability of section.

(1) As used in this section:

(a) "Certified historic structure" means a property located in Mississippi that has been:

(i) Listed individually on the National Register of Historic Places; or

(ii) Determined eligible for the National Register of Historic Places by the Secretary of the United States Department of the Interior and will be listed within thirty (30) months of claiming the credit authorized by this section; or

(iii) Property designated a Mississippi Landmark by the Department of Archives and History pursuant to Section 39-7-3 et seq.

(b) "Eligible property" means property located in Mississippi and offered or used for residential or business purposes; however, the term "eligible property" shall not include a single-family dwelling unless:

(i) A certificate evidencing the eligible credit has been issued to the taxpayer by the department prior to July 1, 2016, that applies to such dwelling; or

(ii) The dwelling is designated as a National Historic Landmark under the National Historic Landmarks Program.

(c) "Structure in a certified historic district" means a structure (and its structural components) located in Mississippi which:

(i) Is listed in the National Register of Historic Places; or

(ii) Has been determined eligible for the National Register of Historic Places by the Secretary of the United States Department of the Interior and will be listed within thirty (30) months of claiming the credit authorized by this section; or

(iii) Is located in a registered historic district listed on the National Register of Historic Places or located in a potential district that has been determined eligible for the National Register of Historic Places by the Secretary of the United States Department of the Interior and will be listed within thirty (30) months of claiming the credit authorized by this section, and is certified by the Secretary of the United States Department of the Interior as being of historic significance to the district; or

(iv) Is certified by the Mississippi Department of Archives and History as contributing to the historic significance of:

1. A certified historic district listed on the National Register of Historic Places; or

2. A potential district that has been determined eligible for the National Register of Historic Places by the Secretary of the United States Department of the Interior and will be listed within thirty (30) months of claiming the credit authorized by this section; or

3. A local district that has been certified by the United States Department of the Interior.

(d) "Department" means the Department of Archives and History.

(2) Any taxpayer incurring costs and expenses for the rehabilitation of eligible property, which is a certified historic structure or a structure in a certified historic district, shall be entitled to a credit against the taxes imposed pursuant to this chapter in an amount equal to twenty-five percent (25%) of the

total costs and expenses of rehabilitation incurred after January 1, 2006, which shall include, but not be limited to, qualified rehabilitation expenditures as defined under Section 47(c)(2)(A) of the Internal Revenue Code of 1986, as amended, and the related regulations thereunder:

(a) If the costs and expenses associated with rehabilitation exceed:

(i) Five Thousand Dollars ($5,000.00) in the case of an owner-occupied dwelling; or

(ii) Fifty percent (50%) of the total basis in the property in the case of all other properties; and

(b) The rehabilitation is consistent with the standards of the Secretary of the United States Department of the Interior as determined by the department.

(3) Any taxpayer eligible for the credit authorized by this section may claim the credit in phases if:

(a) There is a written set of architectural plans and specifications for all phases of the rehabilitation (written plans outlining and describing all phases of the rehabilitation shall be accepted as written plans and specifications);

(b) The written set of architectural plans and specifications are completed before the physical work on the rehabilitation begins; and

(c) It can reasonably be expected that all phases of the rehabilitation will be completed.

(4)(a)(i) If the amount of the tax credit established by this section exceeds the total state income tax liability for the year in which the rehabilitated property is placed in service, the amount that exceeds the total state income tax liability may be carried forward for the ten (10) succeeding tax years.

(ii) The taxpayer may elect to claim a refund in the amount of seventy-five percent (75%) of the excess credit in lieu of the ten-year carryforward. The election must be made in the year in which the rehabilitated property is placed in service. Refunds will be paid in equal installments over a two-year period and shall be made from current collections.

(iii) Refund requests shall be submitted to the Department of Revenue on forms prescribed by the department. Refunds shall be made from current tax collections.

(b) Not-for-profit entities, including, but not limited to, nonprofit corporations organized under Section 79-11-101 et seq. shall be ineligible for the credit authorized by this section. Credits granted to a partnership, a limited liability company taxed as a partnership or multiple owners of property shall be passed through to the partners, members or owners on a pro rata basis or pursuant to an executed agreement among the partners, members or owners documenting an alternative distribution method. Partners, members or other owners of a pass-through entity are not eligible to elect a refund of excess credit in lieu of a carryforward of the credit. However, a partnership or limited liability company taxed as a partnership may elect to claim a

refund of excess credit at the entity level on a form prescribed by the Department of Revenue. Additionally, excess tax credits that are attributable to rehabilitated property that was placed in service by a pass-through entity prior to January 1, 2011, and that have previously been allocated to and are held by another pass-through entity prior to January 1, 2011, may be refunded to such other pass-through entity.

(5)(a) To claim the credit authorized pursuant to this section, the taxpayer shall apply to the department which shall determine the amount of eligible rehabilitation costs and expenses and whether the rehabilitation is consistent with the standards of the Secretary of the United States Department of the Interior. The department shall issue a certificate evidencing the eligible credit if the taxpayer is found to be eligible for the tax credit. The taxpayer shall attach the certificate to all income tax returns on which the credit is claimed. The department shall not issue certificates evidencing the eligible credit which, when combined with certificates of eligible credits issued prior to July 1, 2016, will result in credits being awarded in excess of Twelve Million Dollars ($12,000,000.00) in any one (1) state fiscal year.

(b) The aggregate amount of tax credits that may be awarded under this section shall not exceed One Hundred Eighty Million Dollars ($180,000,000.00). A taxpayer who was issued a certificate evidencing the eligible credit by the department prior to July 1, 2020, but who was unable to be awarded the credit due to the limit on the aggregate amount of credits authorized under this section prior to July 1, 2020:

(i) May be awarded the credit so long as the award does not cause the aggregate amount of tax credits awarded to exceed the amount authorized in this paragraph; and

(ii) Shall be given priority for tax credits awarded after July 1, 2020.

(6)(a) The credit received by a taxpayer pursuant to this section is subject to recapture if:

(i) The property is one that has been determined eligible for the National Register of Historic Places but is not listed on the National Register of Historic Places within thirty (30) months of claiming the credit authorized by this section;

(ii) The potential district in which the property is located is not listed on the National Register of Historic Places within thirty (30) months of claiming the credit authorized by this section; or

(iii) The rehabilitation of the property for which the credit was granted is abandoned.

(b) The taxpayer shall notify the department and the Department of Revenue if any of the situations that subject the credit to recapture occur.

(7)(a) The board of trustees of the department shall establish fees to be charged for the services performed by the department under this section and shall publish the fee schedule. The fees contained in the schedule shall be in amounts reasonably calculated to recover the costs incurred by the department for the administration of this section. Any taxpayer desiring to participate in the tax credits authorized by this section shall pay the

appropriate fee as contained in the fee schedule to the department, which shall be used by the department, without appropriation, to offset the administrative costs of the department associated with its duties under this section.

(b) There is hereby created within the State Treasury a special fund into which shall be deposited all the fees collected by the department pursuant to this section. Money deposited into the fund shall not lapse at the end of any fiscal year and investment earnings on the proceeds in such special fund shall be deposited into such fund. Money from the fund shall be disbursed upon warrants issued by the State Fiscal Officer upon requisitions signed by the executive director of the department to assist the department in carrying out its duties under this section.

(8) This section shall only apply to taxpayers:

(a) Who have been issued a certificate evidencing the eligible credit before December 31, 2030; or

(b) Who, before December 31, 2030, have received a determination in writing from the Mississippi Department of Archives and History, in accordance with the department's Historic Preservation Certificate Application, Part 2, that the rehabilitation is consistent with the historic character of the property and that the property meets the United States Secretary of the Interior's Standards for Rehabilitation, or will meet the standards if certain specified conditions are met, and, who are issued a certificate evidencing the eligible credit on or after December 31, 2030.

HISTORY: Laws, 2006, ch. 420, § 1; Laws, 2011, ch. 302, § 1; Laws, 2011, ch. 477, § 1; Laws, 2013, ch. 504, § 1; Laws, 2014, ch. 530, § 38; Laws, 2016, ch. 483, § 1, eff from and after July 1, 2016; Laws, 2020, ch. 453, § 1, eff from and after July 1, 2020.

Amendment Notes — The 2020 amendment, in (4)(a)(ii), deleted "If the amount of the tax credit established by this section exceeds Two Hundred Fifty Thousand Dollars ($250,000.00)" from the beginning of the first sentence and made a related change; in the introductory paragraph of (5)(b), substituted "One Hundred Eighty Million Dollars ($180,000,000.00)" for "One Hundred Twenty Million Dollars ($120,000,000.00) and not more than Twelve Million Dollars ($12,000,000.00) may be awarded in any one (1) state fiscal year" in the first sentence and "July 1, 2020" for "July 1, 2016" twice in the last sentence; in (5)(b)(ii), substituted "July 1, 2020" for "July 1, 2016"; in (8), substituted "December 31, 2030" for "December 31, 2020" everywhere it appears; and corrected a minor grammatical error.

§ 27-7-22.32. Income tax credit for certain qualified adoption expenses.

[Through December 31, 2023, this section shall read as follows:]

(1)(a) There shall be allowed as a credit against the tax imposed by this chapter the amount of the qualified adoption expenses paid or incurred, not to exceed Two Thousand Five Hundred Dollars ($2,500.00), for each dependent child legally adopted by a taxpayer under the laws of this state during calendar year 2006 or during any calendar year thereafter through calendar

year 2017, and not to exceed Five Thousand Dollars ($5,000.00) for each dependent child legally adopted by a taxpayer under the laws of this state during any calendar year thereafter. A taxpayer claiming a credit under this paragraph (a) may not claim a credit under paragraph (b) of this subsection for the adoption of the same child.

(b) There shall be allowed as a credit against the tax imposed by this chapter the amount of Five Thousand Dollars ($5,000.00) for each dependent child legally adopted by a taxpayer under the laws of this state through the Mississippi Department of Child Protection Services during calendar year 2018 or during any calendar year thereafter. A taxpayer claiming a credit under this paragraph (b) may not claim a credit under paragraph (a) of this subsection for the adoption of the same child.

(2) The tax credit under this section may be claimed for the taxable year in which the adoption becomes final under the laws of this state. Any tax credit claimed under this section but not used in any taxable year may be carried forward for the five (5) succeeding tax years. A tax credit is allowed under this section for any child for which an exemption is claimed during the same taxable year under Section 27-7-21(e). For the purposes of this section, the term "qualified adoption expenses" means and has the same definition as that term has in 26 USCS 36C.

[Effective from and after January 1, 2024, this section shall read as follows:]

There shall be allowed as a credit against the tax imposed by this chapter the amount of the qualified adoption expenses paid or incurred, not to exceed Two Thousand Five Hundred Dollars ($2,500.00), for each dependent child legally adopted by a taxpayer under the laws of this state during calendar year 2006 or during any calendar year thereafter. The tax credit under this section may be claimed for the taxable year in which the adoption becomes final under the laws of this state. Any tax credit claimed under this section but not used in any taxable year may be carried forward for the three (3) succeeding tax years. A tax credit is allowed under this section for any child for which an exemption is claimed during the same taxable year under Section 27-7-21(e). For the purposes of this section, the term "qualified adoption expenses" means and has the same definition as that term has in 26 USCS 36C.

HISTORY: Laws, 2006, ch. 518, § 1; Laws, 2013, ch. 449, § 1, eff from and after Jan. 1, 2013; Laws, 2018, ch. 437, § 2, eff from and after January 1, 2018, eff from and after January 1, 2018; Laws, 2019, ch. 484, § 4, eff from and after January 1, 2019; Laws, 2020, ch. 453, § 4, eff from and July 1, 2020.

Editor's Notes — Laws of 2018, ch. 437, §§ 3 and 4, effective January 1, 2018, provide:

"SECTION 4. Nothing in this act shall affect or defeat any claim, assessment, appeal, suit, right or cause of action for taxes due or accrued under the income tax laws before the date on which this act becomes effective, whether such claims, assessments, appeals, suits or actions have been begun before the date on which this act becomes effective or are begun thereafter; and the provisions of the income tax laws are

expressly continued in full force, effect and operation for the purpose of the assessment, collection and enrollment of liens for any taxes due or accrued and the execution of any warrant under such laws before the date on which this act becomes effective, and for the imposition of any penalties, forfeitures or claims for failure to comply with such laws."

Laws of 2019, ch. 484, § 1, effective January 1, 2019, provides as follows:

"SECTION 1. This act shall be known and may be cited as the Children's Promise Act."

Laws of 2019, ch. 484, § 6, effective January 1, 2019, provides as follows:

"SECTION 6. Nothing in this act shall affect or defeat any claim, assessment, appeal, suit, right or cause of action for taxes due or accrued under the income tax laws or insurance premium tax laws before the date on which this act becomes effective, whether such claims, assessments, appeals, suits or actions have been begun before the date on which this act becomes effective or are begun thereafter; and the provisions of the income tax laws and insurance premium tax laws are expressly continued in full force, effect and operation for the purpose of the assessment, collection and enrollment of liens for any taxes due or accrued and the execution of any warrant under such laws before the date on which this act becomes effective, and for the imposition of any penalties, forfeitures or claims for failure to comply with such laws."

Laws of 2020, ch. 453, §§ 8 and 9, provide:

"SECTION 8. Nothing in this act shall affect or defeat any claim, assessment, appeal, suit, right or cause of action for taxes due or accrued under the income tax laws before the date on which this act becomes effective, whether such claims, assessments, appeals, suits or actions have been begun before the date on which this act becomes effective or are begun thereafter; and the provisions of the income tax laws are expressly continued in full force, effect and operation for the purpose of the assessment, collection and enrollment of liens for any taxes due or accrued and the execution of any warrant under such laws before the date on which this act becomes effective, and for the imposition of any penalties, forfeitures or claims for failure to comply with such laws.

"SECTION 9. Sections 2 and 3 of this act shall take effect and be in force from and after January 1, 2020, and the remaining sections of this act shall take effect and be in force from and after July 1, 2020."

Amendment Notes — The 2018 amendment, effective January 1, 2018, in the first version, substituted "December 31, 2019" for "December 31, 2018" in the bracketed effective date language, divided the formerly undesignated section into (1) and (2) by designating the former first sentence of the section as the first sentence of (1)(a) and designating the remaining sentences in the former section as (2), in (1)(a), added "through calendar year 2017...this state during any calendar year thereafter" to the end of the first sentence, and added the last sentence, added (1)(b), and substituted "five (5) succeeding tax years" for "three (3) succeeding tax years" in (2); and in the second version, substituted "January 1, 2020" for "January 1, 2019" in the bracketed effective date language.

The 2019 amendment, effective January 1, 2019, substituted "December 31, 2020" for "December 31, 2019" in the bracketed language preceding the first version; and substituted "January 1, 2021" for "January 1, 2020" in the bracketed language preceding the second version.

The 2020 amendment, in the first version of the section, substituted "December 31, 2023" for "December 31, 2020" in the bracketed effective date language preceding the version; and in the second version of the section, substituted "January 1, 2024" for "January 1, 2021" in the bracketed effective date language preceding the version.

§ 27-7-22.36. Job tax credit for enterprises owning or operating an upholstered household furniture manufacturing facility for each full-time employee employed in new cut and sew job [Repealed effective January 1, 2022].

(1) As used in this section:

(a) "Full-time employee" means an employee that works at least thirty-five (35) hours per week.

(b) "New cut and sew job" means a job in which the employee cuts and sews upholstery for upholstered household furniture and which job did not exist in this state before January 1, 2010.

(2) Any enterprise owning or operating an upholstered household furniture manufacturing facility is allowed a job tax credit for taxes imposed by this chapter equal to Two Thousand Dollars ($2,000.00) annually for each full-time employee employed in a new cut and sew job for a period of five (5) years from the date the credit commences. The credit shall commence on the date selected by the enterprise. For the year in which the commencement date occurs, the credit will be determined based on the monthly average number of full-time employees employed in new cut and sew jobs subject to the Mississippi income tax withholding that are employed by the enterprise. For each year thereafter, the number of new cut and sew jobs shall be determined by comparing the monthly average number of full-time employees employed in new cut and sew jobs subject to the Mississippi income tax withholding for the taxable year with the corresponding period of the prior taxable year. The Department of Revenue shall verify that the jobs claimed by enterprises to obtain the credit meet the definition of the term "new cut and sew job." The Department of Revenue shall adjust the credit allowed each year for employment fluctuations.

(3) The credit that may be used each year shall be limited to an amount not greater than the total state income tax liability of the enterprise. Any tax credit claimed under this section but not used in any taxable year may be carried forward for five (5) consecutive years from the close of the tax year in which the credits were earned.

(4) The tax credits provided for in this section shall be in lieu of the tax credits provided for in Section 57-73-21 and any enterprise using the tax credit authorized in this section shall not use the tax credit authorized in Section 57-73-21.

(5) Any taxpayer who is eligible for the credit authorized in this section prior to January 1, 2022, shall be eligible for the credit authorized in this section, notwithstanding the repeal of this section, and shall be allowed to carry forward the credit after January 1, 2022, as provided for in subsection (3) of this section.

(6) This section shall be repealed from and after January 1, 2022.

HISTORY: Laws, 2010, ch. 432, § 1; Laws, 2012, ch. 378, § 1; Laws, 2016, ch. 378, § 1, eff from and after Jan. 1, 2016; Laws, 2019, ch. 334, § 1, eff from and after January 1, 2019.

Amendment Notes — The 2019 amendment, effective January 1, 2019, substituted "January 1, 2022" for "January 1, 2019" both times it appears in (5); and extended the date of the repealer for the section by substituting "January 1, 2022" for "January 1, 2019" in (6).

§ 27-7-22.38. Repealed.

Repealed by its own terms, effective January 1, 2018.
§ 27-7-22.38. [Laws, 2015, ch. 449, § 1, eff from and after Jan. 1, 2016.]

Editor's Notes — Former § 27-7-22.38 provided an income tax credit for taxpayers employing certain honorably discharged veterans.

§ 27-7-22.39. Income tax credit for voluntary cash contributions to qualifying charitable organizations; separate income tax credit for voluntary cash contributions to qualifying foster care charitable organizations [Repealed effective January 1, 2025].

(1) As used in this section:

(a) "Low-income residents" means persons whose household income is less than one hundred fifty percent (150%) of the federal poverty level.

(b) "Qualifying charitable organization" means a charitable organization that is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code or is a designated community action agency that receives community services block grant program monies pursuant to 42 USC 9901. The organization must spend at least fifty percent (50%) of its budget on services to residents of this state who receive temporary assistance for needy families benefits or low-income residents of this state and their households or to children who have a chronic illness or physical, intellectual, developmental or emotional disability who are residents of this state. A charitable organization that is exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code and that meets all other requirements of this paragraph except that it does not spend at least fifty percent (50%) of its overall budget in Mississippi may be a qualifying charitable organization if it spends at least fifty percent (50%) of its Mississippi budget on services to qualified individuals in Mississippi and it certifies to the department that one hundred percent (100%) of the voluntary cash contributions from the taxpayer will be spent on services to qualified individuals in Mississippi. Taxpayers choosing to make donations through an umbrella charitable organization that collects donations on behalf of member charities shall designate that the donation be directed to a member charitable organization that would qualify under this section on a stand-alone basis. Qualifying charitable organization does not include any entity that provides, pays for or provides coverage of abortions or that financially supports any other entity that provides, pays for or provides coverage of abortions.

(c) "Qualifying foster care charitable organization" means a qualifying charitable organization that each operating year provides services to at least one hundred (100) qualified individuals in this state and spends at least fifty percent (50%) of its budget on services to qualified individuals in this state. A charitable organization that is exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code and that meets all other requirements of this paragraph except that it does not spend at least fifty

percent (50%) of its overall budget in Mississippi may be a qualifying foster care charitable organization if it spends at least fifty percent (50%) of its Mississippi budget on services to qualified individuals in Mississippi and it certifies to the department that one hundred percent (100%) of the voluntary cash contributions from the taxpayer will be spent on services to qualified individuals in Mississippi. For the purposes of this paragraph, "qualified individual" means a child in a foster care placement program established by the Department of Child Protection Services, a child placed under the Safe Families for Children model, or a child at significant risk of entering a foster care placement program established by the Department of Child Protection Services.

(d) "Services" means:

(i) Cash assistance, medical care, child care, food, clothing, shelter, and job-placement services or any other assistance that is reasonably necessary to meet immediate basic needs and that is provided and used in this state;

(ii) Job-training or education services or funding for parents, foster parents or guardians; or

(iii) Job-training or education services or funding provided as part of a foster care independent living program.

(2) Except as provided in subsections (3) and (4) of this section, a credit is allowed against the taxes imposed by this chapter for voluntary cash contributions by the taxpayer during the taxable year to a qualifying charitable organization, other than a qualifying foster care charitable organization, not to exceed:

(a) The lesser of Four Hundred Dollars ($400.00) or the amount of the contribution in any taxable year for a single individual or a head of household.

(b) The lesser of Eight Hundred Dollars ($800.00) or the amount of the contribution in any taxable year for a married couple filing a joint return.

(3) A separate credit is allowed against the taxes imposed by this chapter for voluntary cash contributions during the taxable year to a qualifying foster care charitable organization. A contribution to a qualifying foster care charitable organization does not qualify for, and shall not be included in, any credit amount under subsection (2) of this section. If the voluntary cash contribution by the taxpayer is to a qualifying foster care charitable organization, the credit shall not exceed:

(a) The lesser of Five Hundred Dollars ($500.00) or the amount of the contribution in any taxable year for a single individual or a head of household.

(b) The lesser of One Thousand Dollars ($1,000.00) or the amount of the contribution in any taxable year for a married couple filing a joint return.

(4) Subsections (2) and (3) of this section provide separate credits against taxes imposed by this chapter depending on the recipients of the contributions. A taxpayer, including a married couple filing a joint return, in the same taxable year, may either or both:

(a) Contribute to a qualifying charitable organization, other than a qualifying foster care charitable organization, and claim a credit under subsection (2) of this section.

(b) Contribute to a qualifying foster care charitable organization and claim a credit under subsection (3) of this section.

(5) A husband and wife who file separate returns for a taxable year in which they could have filed a joint return may each claim only one-half (1/2) of the tax credit that would have been allowed for a joint return.

(6) If the allowable tax credit exceeds the taxes otherwise due under this chapter on the claimant's income, or if there are no taxes due under this chapter, the taxpayer may carry forward the amount of the claim not used to offset the taxes under this chapter for not more than five (5) consecutive taxable years' income tax liability.

(7) The credit allowed by this section is in lieu of a deduction pursuant to Section 170 of the Internal Revenue Code and taken for state tax purposes.

(8) Taxpayers taking a credit authorized by this section shall provide the name of the qualifying charitable organization and the amount of the contribution to the department on forms provided by the department.

(9) A qualifying charitable organization shall provide the department with a written certification that it meets all criteria to be considered a qualifying charitable organization. The organization shall also notify the department of any changes that may affect the qualifications under this section.

(10) The charitable organization's written certification must be signed by an officer of the organization under penalty of perjury. The written certification shall include the following:

(a) Verification of the organization's status under Section 501(c)(3) of the Internal Revenue Code or verification that the organization is a designated community action agency that receives community services block grant program monies pursuant to 42 USC 9901.

(b) Financial data indicating the organization's budget for the organization's prior operating year and the amount of that budget spent on services to residents of this state who either:

(i) Receive temporary assistance for needy families benefits;

(ii) Are low-income residents of this state;

(iii) Are children who have a chronic illness or physical, intellectual, developmental or emotional disability; or

(iv) Are children in a foster care placement program established by the Department of Child Protection Services, children placed under the Safe Families for Children model or children at significant risk of entering a foster care placement program established by the Department of Child Protection Services.

(c) A statement that the organization plans to continue spending at least fifty percent (50%) of its budget on services to residents of this state who receive temporary assistance for needy families benefits, who are low-income residents of this state, who are children who have a chronic

illness or physical, intellectual, developmental or emotional disability or who are children in a foster care placement program established by the Department of Child Protection Services, children placed under the Safe Families for Children model or children at significant risk of entering a foster care placement program established by the Department of Child Protection Services. A charitable organization that is exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code and that meets all other requirements for a qualifying charitable organization or qualifying foster care charitable organization except that it does not spend at least fifty percent (50%) of its overall budget in Mississippi shall submit a statement that it spends at least fifty percent (50%) of its Mississippi budget on services to qualified individuals in Mississippi and that one hundred percent (100%) of the voluntary cash contributions it receives from Mississippi taxpayers will be spent on services to qualified individuals in Mississippi.

(d) In the case of a foster care charitable organization, a statement that each operating year it provides services to at least one hundred (100) qualified individuals in this state.

(e) A statement that the organization does not provide, pay for or provide coverage of abortions and does not financially support any other entity that provides, pays for or provides coverage of abortions.

(f) Any other information that the department requires to administer this section.

(11) The department shall review each written certification and determine whether the organization meets all the criteria to be considered a qualifying charitable organization and notify the organization of its determination. The department may also periodically request recertification from the organization. The department shall compile and make available to the public a list of the qualifying charitable organizations.

(12) The aggregate amount of tax credits that may be awarded under this section in any calendar year shall not exceed Three Million Dollars ($3,000,000.00). However, for calendar year 2021, and for each calendar year thereafter, the aggregate amount of tax credits that may be awarded under this section in any calendar year shall not exceed One Million Dollars ($1,000,000.00). In addition, any tax credits not awarded under this section before June 1, 2020, may be allocated during calendar year 2020 under Section 27-7-22.41 for contributions by taxpayers to eligible charitable organizations described in Section 27-7-22.41(1)(b)(ii) as provided under such section, notwithstanding any limitation on the percentage of tax credits that may be allocated for such contributions.

(13) A taxpayer shall apply for credits with the department on forms prescribed by the department. In the application the taxpayer shall certify to the department the dollar amount of the contributions made or to be made during the calendar year. Within thirty (30) days after the receipt of an application, the department shall allocate credits based on the dollar amount of contributions as certified in the application. However, if the department cannot allocate the full amount of credits certified in the application due to the

limit on the aggregate amount of credits that may be awarded under this section in a calendar year, the department shall so notify the applicant within thirty (30) days with the amount of credits, if any, that may be allocated to the applicant in the calendar year. Once the department has allocated credits to a taxpayer, if the contribution for which a credit is allocated has not been made as of the date of the allocation, then the contribution must be made not later than sixty (60) days from the date of the allocation. If the contribution is not made within such time period, the allocation shall be cancelled and returned to the department for reallocation. Upon final documentation of the contributions, if the actual dollar amount of the contributions is lower than the amount estimated, the department shall adjust the tax credit allowed under this section.

(14) This section shall be repealed from and after January 1, 2025.

HISTORY: Laws, 2018, ch. 437, § 1, eff from and after January 1, 2018; Laws, 2019, ch. 484, § 3, eff from and after January 1, 2019; Laws, 2020, ch. 453, § 3, eff from and after January 1, 2020.

Editor's Notes — Laws of 2018, ch. 437, §§ 3 and 4, effective January 1, 2018, provides:

"SECTION 3. Section 1 of this act shall be codified as a new section in Chapter 7, Title 27, Mississippi Code of 1972.

"SECTION 4. Nothing in this act shall affect or defeat any claim, assessment, appeal, suit, right or cause of action for taxes due or accrued under the income tax laws before the date on which this act becomes effective, whether such claims, assessments, appeals, suits or actions have been begun before the date on which this act becomes effective or are begun thereafter; and the provisions of the income tax laws are expressly continued in full force, effect and operation for the purpose of the assessment, collection and enrollment of liens for any taxes due or accrued and the execution of any warrant under such laws before the date on which this act becomes effective, and for the imposition of any penalties, forfeitures or claims for failure to comply with such laws."

Laws of 2019, ch. 484, § 1, effective January 1, 2019, provides as follows:

"SECTION 1. This act shall be known and may be cited as the Children's Promise Act."

Laws of 2019, ch. 484, § 6, effective January 1, 2019, provides as follows:

"SECTION 6. Nothing in this act shall affect or defeat any claim, assessment, appeal, suit, right or cause of action for taxes due or accrued under the income tax laws or insurance premium tax laws before the date on which this act becomes effective, whether such claims, assessments, appeals, suits or actions have been begun before the date on which this act becomes effective or are begun thereafter; and the provisions of the income tax laws and insurance premium tax laws are expressly continued in full force, effect and operation for the purpose of the assessment, collection and enrollment of liens for any taxes due or accrued and the execution of any warrant under such laws before the date on which this act becomes effective, and for the imposition of any penalties, forfeitures or claims for failure to comply with such laws."

Laws of 2020, ch. 453, §§ 8 and 9, provide:

"SECTION 8. Nothing in this act shall affect or defeat any claim, assessment, appeal, suit, right or cause of action for taxes due or accrued under the income tax laws before the date on which this act becomes effective, whether such claims, assessments, appeals, suits or actions have been begun before the date on which this act becomes effective or are begun thereafter; and the provisions of the income tax laws are expressly continued in full force, effect and operation for the purpose of the assessment, collection and enrollment of liens for any taxes due or accrued and the execution of any

warrant under such laws before the date on which this act becomes effective, and for the imposition of any penalties, forfeitures or claims for failure to comply with such laws.

"SECTION 9. Sections 2 and 3 of this act shall take effect and be in force from and after January 1, 2020, and the remaining sections of this act shall take effect and be in force from and after July 1, 2020."

Amendment Notes — The 2019 amendment, effective January 1, 2019, substituted "qualified individuals in Mississippi" for "Mississippi residents" in the third sentence of (1)(b), the second sentence of (1)(c), and the last sentence of (10)(c); in (1)(d), deleted "and job-training" following "job-placement" and made related changes in (i) and added (ii) and (iii); in (10), inserted "children placed under the Safe Families for Children model or children at significant risk of entering a foster care placement program established by the Department of Child Protection Services" in (b)(iv) and (c); substituted "Three Million Dollars ($3,000,000.00)" for "One Million Dollars ($1,000,000.00)" in (12); added (13); redesignated former (13) as (14), and therein, extended the date of the repealer for the section by substituting "January 1, 2021" for "January 1, 2020."

The 2020 amendment, effective January 1, 2020, in (1)(b)(ii)3, added "or selected for...U.S. Department of Education"; in (8), added (b); in (9), added the last four sentences; and deleted former (10), which read: "The department shall not allocate any credits under this section after January 1, 2025."

Federal Aspects— Community Support for School Success, see 20 USCS 7271 et seq.

§ 27-7-22.40. Job tax credit for certain full-time jobs created in Mississippi by water transportation enterprises [Repealed effective January 1, 2023].

(1) The following words and phrases shall have the meanings ascribed in this section unless the context clearly indicates:

(a) "Water transportation enterprise" means an enterprise or establishment primarily engaged in providing inland water transportation of cargo on lakes, rivers and/or intracoastal waterways, except on the Great Lakes System.

(b) "Mississippi full-time job" means a job created in the State of Mississippi on or after January 1, 2019, and filled by a Mississippi resident who works at least thirty-five (35) hours per week.

(2) Subject to the provisions of this section, any water transportation enterprise is allowed a job tax credit for taxes imposed by this chapter equal to Two Thousand Dollars ($2,000.00) annually for each Mississippi full-time job created for a period of five (5) years from the date the credit commences. A water transportation enterprise may not claim a tax credit for the reemployment of a person whose employment with the enterprise is terminated by the enterprise if the reemployment by the enterprise occurs within twelve (12) months from the date of the termination. The credit shall commence on the date selected by the enterprise. For the year in which the commencement date occurs, the credit will be determined based on the monthly average number of full-time employees employed by the water transportation enterprise in Mississippi full-time jobs subject to the Mississippi income tax withholding. For each year thereafter, the number of Mississippi full-time jobs shall be determined by comparing the monthly average number of full-time employees employed at the water transportation enterprise in Mississippi full-time jobs

subject to the Mississippi income tax withholding for the taxable year with the corresponding period of the prior taxable year. The Department of Revenue shall adjust the credit allowed each year for employment fluctuations.

(3) The credit that may be used each year shall be limited to an amount not greater than the total state income tax liability of the water transportation enterprise. Any tax credit claimed under this section but not used in any taxable year may be carried forward for five (5) consecutive years from the close of the tax year in which the credits were earned.

(4)(a) The sale, merger, acquisition, reorganization, bankruptcy or relocation from one (1) county to another county within the state of any water transportation enterprise may not create new eligibility in any succeeding business entity, but any unused job tax credit may be transferred and continued by any transferee of the water transportation enterprise. The Department of Revenue shall determine whether or not qualifying net increases or decreases have occurred or proper transfers of credit have been made and may require reports, promulgate regulations, and hold hearings as needed for substantiation and qualification.

(5) The credits allowed under this section shall not be used by any business enterprise or corporation other than the water transportation enterprise actually qualifying for the credits.

(6) The maximum aggregate amount of tax credits that may be claimed by all taxpayers claiming a credit under this section in a taxable year shall not exceed Two Million Dollars ($2,000,000.00).

(7) Any water transportation enterprise that is eligible for the credit authorized in this section before January 1, 2023, shall be eligible for the credit authorized in this section, notwithstanding the repeal of this section, and shall be allowed to carry forward the credit after January 1, 2023, as provided for in subsection (3) of this section.

(8) This section shall be repealed from and after January 1, 2023.

HISTORY: Laws, 2019, ch. 419, § 1, eff from and after January 1, 2019.

Editor Notes -- Laws of 2019, ch. 419, § 2, effective January 1, 2019, provides:
"SECTION 2. Section 1 of this act shall be codified as a new section in Chapter 7, Title 27, Mississippi Code of 1972."

§ 27-7-22.41. Tax credit for certain business enterprises making voluntary cash contributions to eligible charitable organizations.

(1) For the purposes of this section, the following words and phrases shall have the meanings ascribed in this section unless the context clearly indicates otherwise:

(a) "Department" means the Department of Revenue.

(b) "Eligible charitable organization" means an organization that is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code and is:

(i) Licensed by or under contract or agreement with the Department of Child Protection Services and provides services for:

1. The prevention and diversion of children from custody with the Department of Child Protection Services,

2. The safety, care and well-being of children in custody with the Department of Child Protection Services, or

3. The express purpose of creating permanency for children through adoption; or

(ii) Certified by the department as a job training, workforce development or educational services charitable organization and provides services to:

1. Children in a foster care placement program established by the Department of Child Protection Services, children placed under the Safe Families for Children model, or children at significant risk of entering a foster care placement program established by the Department of Child Protection Services,

2. Children who have a chronic illness or physical, intellectual, developmental or emotional disability, or

3. Children eligible for free or reduced price meals programs under Section 37-11-7, or selected for participation in the Promise Neighborhoods Program sponsored by the U.S. Department of Education.

(2)(a) The tax credit authorized in this section shall be available only to a taxpayer who is a business enterprise engaged in commercial, industrial or professional activities and operating as a corporation, limited liability company, partnership or sole proprietorship. Except as otherwise provided in this section, a credit is allowed against the taxes imposed by Sections 27-7-5, 27-15-103, 27-15-109 and 27-15-123, for voluntary cash contributions made by a taxpayer during the taxable year to an eligible charitable organization. The amount of credit that may be utilized by a taxpayer in a taxable year shall be limited to an amount not to exceed fifty percent (50%) of the total tax liability of the taxpayer for the taxes imposed by such sections of law. Any tax credit claimed under this section but not used in any taxable year may be carried forward for five (5) consecutive years from the close of the tax year in which the credits were earned.

(b) A contribution to an eligible charitable organization for which a credit is claimed under this section does not qualify for and shall not be included in any credit that may be claimed under Section 27-7-22.39.

(c) A contribution for which a credit is claimed under this section may not be used as a deduction by the taxpayer for state income tax purposes.

(3) Taxpayers taking a credit authorized by this section shall provide the name of the eligible charitable organization and the amount of the contribution to the department on forms provided by the department.

(4) An eligible charitable organization shall provide the department with a written certification that it meets all criteria to be considered an eligible charitable organization. The organization shall also notify the department of any changes that may affect eligibility under this section.

(5) The eligible charitable organization's written certification must be signed by an officer of the organization under penalty of perjury. The written certification shall include the following:

(a) Verification of the organization's status under Section 501(c)(3) of the Internal Revenue Code;

(b) A statement that the organization does not provide, pay for or provide coverage of abortions and does not financially support any other entity that provides, pays for or provides coverage of abortions;

(c) Any other information that the department requires to administer this section.

(6) The department shall review each written certification and determine whether the organization meets all the criteria to be considered an eligible charitable organization and notify the organization of its determination. The department may also periodically request recertification from the organization. The department shall compile and make available to the public a list of eligible charitable organizations.

(7) Tax credits authorized by this section that are earned by a partnership, limited liability company, S corporation or other similar pass-through entity, shall be allocated among all partners, members or shareholders, respectively, either in proportion to their ownership interest in such entity or as the partners, members or shareholders mutually agree as provided in an executed document.

(8)(a) A taxpayer shall apply for credits with the department on forms prescribed by the department. In the application the taxpayer shall certify to the department the dollar amount of the contributions made or to be made during the calendar year. Within thirty (30) days after the receipt of an application, the department shall allocate credits based on the dollar amount of contributions as certified in the application. However, if the department cannot allocate the full amount of credits certified in the application due to the limit on the aggregate amount of credits that may be awarded under this section in a calendar year, the department shall so notify the applicant within thirty (30) days with the amount of credits, if any, that may be allocated to the applicant in the calendar year. Once the department has allocated credits to a taxpayer, if the contribution for which a credit is allocated has not been made as of the date of the allocation, then the contribution must be made not later than sixty (60) days from the date of the allocation. If the contribution is not made within such time period, the allocation shall be cancelled and returned to the department for reallocation. Upon final documentation of the contributions, if the actual dollar amount of the contributions is lower than the amount estimated, the department shall adjust the tax credit allowed under this section.

(b) A taxpayer who applied for a tax credit under this section during calendar year 2020, but who was unable to be awarded the credit due to the limit on the aggregate amount of credits authorized for calendar year 2020, shall be given priority for tax credits authorized to be allocated to taxpayers under this section by Section 27-7-22.39.

(9) The aggregate amount of tax credits that may be allocated by the department under this section during a calendar year shall not exceed Five Million Dollars ($5,000,000.00), and not more than fifty percent (50%) of tax credits allocated during a calendar year may be allocated for contributions to eligible charitable organizations described in subsection (1)(b)(ii) of this section. However, for calendar year 2021, and for each calendar year thereafter, the aggregate amount of tax credits that may be allocated by the department under this section during a calendar year shall not exceed Ten Million Dollars ($10,000,000.00). For calendar year 2021, and for each calendar year thereafter, fifty percent (50%) of the tax credits allocated during a calendar year shall be allocated for contributions to eligible charitable organizations described in subsection (1)(b)(i) of this section and fifty percent (50%) of the tax credits allocated during a calendar year shall be allocated for contributions to eligible charitable organizations described in subsection (1)(b)(ii) of this section. For calendar year 2021, and for each calendar year thereafter, for credits allocated during a calendar year for contributions to eligible charitable organizations described in subsection (1)(b)(i) of this section, no more than twenty-five percent (25%) of such credits may be allocated for contributions to a single eligible charitable organization. For calendar year 2021, and for each calendar year thereafter, for credits allocated during a calendar year for contributions to eligible charitable organizations described in subsection (1)(b)(ii) of this section, no more than five percent (5%) of such credits may be allocated for contributions to a single eligible charitable organization.

HISTORY: Laws, 2019, ch. 484, § 2, eff from and after January 1, 2019; Laws, 2020, ch. 453, § 2, eff from and after January 1, 2020.

Editor's Notes — Laws of 2019, ch. 484, §§ 1, 5 and 6, effective January 1, 2019, provide:

"SECTION 1. This act shall be known and may be cited as the Children's Promise Act.

"SECTION 5. Section 2 of this act shall be codified as a new section in Chapter 7, Title 27, Mississippi Code of 1972.

"SECTION 6. Nothing in this act shall affect or defeat any claim, assessment, appeal, suit, right or cause of action for taxes due or accrued under the income tax laws or insurance premium tax laws before the date on which this act becomes effective, whether such claims, assessments, appeals, suits or actions have been begun before the date on which this act becomes effective or are begun thereafter; and the provisions of the income tax laws and insurance premium tax laws are expressly continued in full force, effect and operation for the purpose of the assessment, collection and enrollment of liens for any taxes due or accrued and the execution of any warrant under such laws before the date on which this act becomes effective, and for the imposition of any penalties, forfeitures or claims for failure to comply with such laws."

Laws of 2020, ch. 453, §§ 8 and 9, provide:

"SECTION 8. Nothing in this act shall affect or defeat any claim, assessment, appeal, suit, right or cause of action for taxes due or accrued under the income tax laws before the date on which this act becomes effective, whether such claims, assessments, appeals, suits or actions have been begun before the date on which this act becomes effective or are begun thereafter; and the provisions of the income tax laws are expressly continued in full force, effect and operation for the purpose of the assessment, collection and enrollment of liens for any taxes due or accrued and the execution of any

warrant under such laws before the date on which this act becomes effective, and for the imposition of any penalties, forfeitures or claims for failure to comply with such laws.

"SECTION 9. Sections 2 and 3 of this act shall take effect and be in force from and after January 1, 2020, and the remaining sections of this act shall take effect and be in force from and after July 1, 2020."

Amendment Notes — The 2020 amendment, effective January 1, 2020, in (1)(b)(ii)3, added "or selected for...U.S. Department of Education"; in (8), added (b); in (9), added the last four sentences; and deleted former (10), which read: "The department shall not allocate any credits under this section after January 1, 2025."

Federal Aspects — Community Support for School Success, see 20 USCS 7271 et seq.

§ 27-7-23. Net income of nonresident and foreign taxpayers.

(a) **Definitions.**

(1) "Doing business" means the operation of any business enterprise or activity in Mississippi for financial profit or economic gain, including, but not limited to, the following:

(A) The regular maintenance of an office or other place of business in Mississippi; or

(B) The regular maintenance in Mississippi of an inventory of merchandise or material for sale, distribution or manufacture, regardless of whether kept on the premises of the taxpayer or otherwise; or

(C) The selling or distributing of merchandise to customers in Mississippi directly from a company-owned or operated vehicle when title to the merchandise is transferred from the seller or distributor to the customer at the time of the sale or distribution (transient selling); or

(D) The regular rendering of service to clients or customers in Mississippi in person or by agents or employees; or

(E) The owning, renting or operating of business or income-producing property, real or personal, in Mississippi; or

(F) The performing of contracts, prime or sublet work, for the construction, repair or renovation of real or personal property.

(2) "Business income" means income of any type or class, and from any activity that meets the relationship described in the transactional test or the functional test described in this paragraph (2). The classification of income by occasionally used labels, including, but not limited to, manufacturing income, compensation for services, sales income interest, dividends, rents, royalties, gains, operating income, and nonoperating income shall not be considered when determining whether income is business or nonbusiness income. All income of the taxpayer is business income unless clearly classifiable as nonbusiness income. A taxpayer seeking to overcome a classification of income as business income must establish by a preponderance of the evidence that the income has been incorrectly classified.

(A) Transactional test. Business income includes income arising from transactions and activity in the regular course of the taxpayer's trade or business.

(i) If the transaction or activity is in the regular course of the taxpayer's trade or business, part of which trade or business is con-

ducted within Mississippi, the resulting income of the transaction or activity is business income for Mississippi. Income may be business income even though the actual transaction or activity that gives rise to the income does not occur in Mississippi.

(ii) For a transaction or activity to be in the regular course of the taxpayer's trade or business, the transactions or activity need not be one that frequently occurs in the trade or business, although most frequently occurring transactions or activities shall be considered to be in the regular course of a trade or business. It is sufficient to classify a transaction or activity as being in the regular course of a trade or business if it is reasonable to conclude transactions of that type are customary in the kind of trade or business being conducted or are within the scope of what the trade or business does.

(B) Functional test. Business income includes income from tangible and intangible property if the acquisition, management and/or disposition of the property constitute integral parts of the taxpayer's regular trade or business operation.

(i) Under the functional test, business income need not be derived from transactions or activities that are in the regular course of the taxpayer's own particular trade or business. It shall be sufficient if the property from which the income is derived is or was an integral, functional, necessary or operative component of the taxpayer's trade or business operations, part of which trade or business is or was conducted within this state.

(ii) Income that is derived from isolated sales, leases, assignments, licenses and other infrequently occurring dispositions, transfers or transactions involving property, including transactions made in liquidation or the winding up of business is business income if the property is or was used in the taxpayer's trade or business operation. Income from the licensing of intangible assets, such as patents, copyrights, trademarks, service marks, goodwill, know-how, trade secrets and similar assets, that were developed or acquired for use by the taxpayer in his trade or business operations, constitute business income whether the licensing itself constituted the operation of a trade or business and whether the taxpayer remains in the same trade or business from or for which the intangible asset was developed or acquired.

(iii) Under the functional test, income from intangible property is business income when the intangible property serves an operating function, as opposed to solely an investment function. The relevant inquiry shall focus on whether the property is or was held in furtherance of the taxpayer's trade or business, that is, on the objective characteristics of the intangible property's use or acquisition and its relation to the taxpayer and the taxpayer's activities. The functional test is not satisfied where the holding of the property is limited solely to an investment function as in the case where the holding of the property is limited to mere financial betterment of the taxpayer in general.

(iv) If the property is or was held in furtherance of the taxpayer's trade or business beyond mere financial betterment, then income from the property may be business income even though the actual transaction or activity involving the property that gives rise to the income does not occur in Mississippi.

(v) If, with respect to an item of property, a taxpayer takes a deduction from business income that is apportioned to Mississippi, or includes that item of property in the property factor, it is presumed that the item of property is or was integral to the taxpayer's trade or business operations. No presumption arises from the absence of any of this action.

(vi) Application of the functional test is generally unaffected by the form of the property. Income arising from intangible property is business income when the intangible property itself or the underlying value of the intangible property is or was an integral, functional, necessary or operative component to the taxpayer's trade or business operation. Therefore, while treatment of income derived from transactions involving intangible property as business income may be supported by a finding that the issuer of the intangible property and the taxpayer are engaged in the same trade or business, establishment of such a relationship is not the exclusive basis for concluding that the income constitutes business income. It is sufficient to support a finding of business income if the holding of the intangible property served an operational rather than an investment function.

(3) "Nonbusiness income" means all income that does not meet the definition of business income.

(4) "Commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed.

(5) "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof.

(b) **Nonresident individuals, partnerships, trusts and estates.**

(1) The tax imposed by this article shall apply to the entire net income of a taxable nonresident derived from employment, trade, business, professional, personal service or other activity for financial gain or profit, performed or carried on within Mississippi, including the rental of real or personal property located within this state or for use herein and including the sale or exchange or other disposition of tangible or intangible property having a situs in Mississippi.

(2) Income derived from trade, business or other commercial activity shall be taxed to the extent that it is derived from such activity within this state. Mississippi net income shall be determined in the manner prescribed by the commissioner for the allocation and/or apportionment of income of foreign corporations having income from sources both within and without the state.

(3) A taxable nonresident shall be allowed to deduct expenses, interest, taxes, losses, bad debts, depreciation and similar business expenses only to

the extent that they are allowable under this article and are attributable to the production of income allocable to and taxable by the State of Mississippi. As to allowable deductions essentially personal in nature, such as contributions to charitable organizations, medical expenses, taxes, interest and the optional standard deduction, such taxable nonresident shall be allowed deductions therefor in the ratio that the net income from sources within Mississippi bears to the total net income from all sources of such taxable nonresident, computed as if such taxable nonresident was a resident of Mississippi.

(c) **Foreign corporations, associations, organizations and other entities.**

(1) Corporations and organizations required to file. All foreign corporations and other organizations which have obtained a certificate of authority from the Secretary of State to do business in Mississippi, or corporations or organizations which are in fact doing business in Mississippi, are subject to the income tax levy and are required to file annual income tax returns unless the corporation or organization is specifically exempt from tax by this article.

(2) Allocation and apportionment of income.

(A) Except as provided in Sections 27-7-24, 27-7-24.1, 27-7-24.3, 27-7-24.5, 27-7-24.7, 27-7-24.8 and 27-7-24.9, Mississippi Code of 1972, any corporation or organization having business income from business activity which is taxable both within and without this state shall allocate and apportion its net business income as prescribed by regulations enacted by the commissioner. If the business income of the corporation is derived solely from property owned or business done in this state and the corporation is not taxable in another state, the entire business income shall be allocated to this state. A corporation is taxable in another state if, in that state the corporation is subject to a net income tax, or a franchise tax measured by net income, or if that state has jurisdiction to subject the corporation to a net income tax regardless of whether the state does or does not subject the corporation to a net income tax.

(B) If the allocation and apportionment provisions of this section or regulations enacted by the commissioner do not fairly represent the extent of the taxpayer's business activity in this state, the taxpayer may petition for, or the commissioner may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

(i) Separate accounting;

(ii) The exclusion of any one or more of the factors;

(iii) The inclusion of one or more additional factors which will fairly represent the taxpayer's business activity in this state; or

(iv) The employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.

(C) In any instance in which a taxpayer requests or the commissioner requires the use of any of the alternative apportionment methods in subparagraph (B) of this paragraph, the party requesting or requiring the method shall bear the burden of proving by preponderance of the evidence

in any administrative or judicial proceeding that the methods set forth in this section or the commissioner's regulations do not fairly represent the extent of the taxpayer's business activity in this state and that the proposed method more fairly represents that activity than any other reasonable method available. The alternative apportionment authority specified in this subparagraph (D) is intended to be invoked only in limited and unique, nonrecurring circumstances where the standard apportionment provisions contained in the statutes and regulations produce unanticipated results that do not fairly represent the extent of the taxpayer's business activity in this state.

(D) The commissioner shall be prohibited from assessing any penalties related to a deficiency arising from requiring the use of an alternative apportionment method under subparagraph (B) of this paragraph unless the commissioner shall establish by preponderance of the evidence that the taxpayer's method was without reasonable basis or was not in accordance with existing statutes or regulations.

(3) Nonbusiness income. Rents and royalties from real or tangible personal property, capital gains, interest, dividends, or patent or copyright royalties, to the extent that they constitute nonbusiness income, shall be allocated as follows:

(A) Net rents and royalties from real property are allocable to the state in which the property is located.

(B) Net rents and royalties from tangible personal property are allocable to the state in which the property is used, or to this state in their entirety if the corporation's commercial domicile is in this state and the corporation is not organized under the laws of or taxable in the state in which the property is utilized.

(C) Capital gains and losses from sales of real property are allocable to the state in which the property is located.

(D) Capital gains and losses from sales of tangible personal property are allocable to the state in which the property is located, or to this state if the corporation's commercial domicile is in this state and the corporation is not taxable in the state in which the property had a situs.

(E) Capital gains and losses from sales of intangible personal property are allocable to the state of the corporation's commercial domicile.

(F) Interest and dividends are allocable to the state of the corporation's commercial domicile.

(G) Patent and copyright royalties are allocable to the state in which the patent or copyright is utilized by the payer, or to this state if and to the extent that the patent or copyright is utilized by the payer in a state in which the corporation is not taxable and the corporation's commercial domicile is in this state.

(H) Any other nonbusiness income shall be allocated as prescribed by the commissioner.

(I) All expenses connected with earning nonbusiness income, such as interest, taxes, general and administrative expenses and such other

expenses relating to the production of nonbusiness income, shall be deducted from gross nonbusiness income. Nonbusiness interest expense shall be computed by using the ratio of nonbusiness assets to total assets applied to total interest expense.

(d) **Foreign lenders.**

(1) In the case of any foreign lender, (corporation, association, organization, individual, partnership, trusts or estates), other than: (A) a foreign insurance company subject to certification by the Commissioner of Insurance, as provided by Section 83-21-1 et seq.; or (B) a foreign lender qualified under the general laws of this state to do business herein; or (C) a foreign lender which maintains an office or place of business within this state; or (D) lenders that sold properties in this state and financed such sale and reported on the installment method, interest income received or accrued on or after January 1, 1977, from loans secured by real estate or from lending on the security of real estate located within this state shall be excluded from Mississippi gross income and exempt from the Mississippi income tax levy and the reporting requirements.

(2) In the case of any foreign lender exempted in paragraph (1) of this subsection, interest income received on any loan finalized or consummated after January 1, 1977, shall be excluded from Mississippi gross income and the net profits derived therefrom shall be exempt from the Mississippi income tax levy for the life of such loan.

(e) **Insurance companies.** Insurance companies, other than life insurance companies, deriving premium income from within and without the state, may determine their Mississippi net income from underwriting by apportioning to this state a part of their total net underwriting income by such processes or formulas of general apportionment as are prescribed by the commissioner; provided that a company adopting this method of reporting for any year must adhere to said method of reporting for subsequent years, unless permission is granted by the commissioner to change to a different method of reporting; and provided that all affiliated companies of the same group shall use the same method of reporting.

(f) **Bond requirements.** Any individual or corporation subject to the tax imposed by this article, engaged in the business of performing contracts which may require the payment of net income taxes, may be required by the commissioner, before entering into the performance of any contract or contracts the consideration of which is more than Ten Thousand Dollars ($10,000.00), to execute and file a good and valid bond with a surety company authorized to do business in this state, or with sufficient sureties to be approved by the commissioner, conditioned that all taxes which may accrue to the State of Mississippi will be paid when due. Provided, however, that such bond shall not exceed five percent (5%) of the total contracts entered into during the taxable period, and, provided further, that any taxpayer, in lieu of furnishing such bond, may pay the maximum sum required herein as advance payment of taxes due on the net income realized from any contract or contracts performed or completed in this state.

HISTORY: Codes, 1942, § 9220-12; Laws, 1934, ch. 120; Laws, 1936, ch. 151; Laws, 1952, ch. 402, § 11; Laws, 1958, ch. 554, § 3; Laws, 1977, ch. 500, § 1; Laws, 1978, ch. 475, § 3; Laws, 1981, ch. 435, § 1; Laws, 1989, ch. 485, § 30; Laws, 1996, ch. 441, § 69; Laws, 2001, ch. 586, § 4; Laws, 2014, ch. 469, § 2; Laws, 2014, ch. 476, § 1, eff from and after Jan. 1, 2015; Laws, 2019, ch. 344, § 2, eff from and after January 1, 2019.

Amendment Notes — The 2019 amendment, effective January 1, 2019, in (c)(2)(A), inserted "and 27-7-24.9," and made a related change.

§ 27-7-24.9. Allocation and apportionment of income of major medical laboratory service business with taxable activities within and without state.

(1) For purposes of the income tax imposed by this chapter, a major medical laboratory service business whose business activity is taxable both within and without this state shall apportion its business income (income which is includable in the apportionable tax base) to this state by multiplying such income by an apportionment percentage determined in accordance with this section.

(2) The net business income which has not been allocated, directly assigned or excluded shall be apportioned to Mississippi by multiplying such business income by a single sales factor. The sales factor is a fraction, the numerator of which is the receipts from medical laboratory services and other receipts of the taxpayer in this state during the taxable year, and the denominator of which is the total receipts of the taxpayer within and without this state during the taxable year.

(3)(a) Receipts attributable to medical laboratory services are determined to be within Mississippi if the medical laboratory services are provided on behalf of an individual or patient whose service address is located in this state at the time the service is performed.

(b) Receipts attributable to medical laboratory services performed in this state shall be thrown back and sourced to this state if, pursuant to the patient service address rule in paragraph (a) of this subsection (3):

(i) The receipts are sourced to a state or local jurisdiction in which the taxpayer is not subject to an income or gross receipts tax (other than a general sales tax) during a given taxable year, or

(ii) The company is subject to an income or gross receipts tax in another state or local jurisdiction but the laws of that jurisdiction do not source such receipts to that jurisdiction.

For purposes of this paragraph (b), a company shall be considered taxable in another state or local jurisdiction if it files a separate company income or gross receipts tax return in that state or local jurisdiction, it is included in a unitary or combined group income or gross receipts tax return in that state or local jurisdiction, or if the state or local jurisdiction has authority to levy an income or gross receipts tax upon the company regardless of whether that jurisdiction actually levies such a tax.

(c) Any other receipts of the taxpayer not attributable to medical

laboratory services shall be sourced to this state pursuant to regulations of the department.

(4) For purposes of this section:

(a) "Major Medical Laboratory Service Business" means a company that performs laboratory testing and analysis for the medical industry and that invests a minimum of Twenty-five Million Dollars ($25,000,000.00) in land, building, and/or equipment located in Mississippi and creates two hundred eighty (280) new full-time, direct jobs within three (3) years of start of operations, as certified by the Mississippi Development Authority.

(b) "Medical Laboratory Services" means laboratory testing and analysis performed for the medical industry.

(c) "Service address" means the physical location of the doctor's office, clinic, or other medical facility requesting the testing or analysis.

HISTORY: Laws, 2019, ch. 344, § 1, eff from and after January 1, 2019.

§ 27-7-39. Information at source.

(1) Every individual, partnership, corporation, joint-stock company or association or insurance company, being a resident or having a place of business in this state, members of partnerships or employees in whatever capacity acting, including lessees and mortgagors of real and personal property, fiduciaries, employers and all officers and employees of the state, or any political subdivision of the state, having the control, receipt, custody, disposal or payment of salaries, wages or commissions in excess of the exemption of the recipient, and of interest, rent, premiums, annuities, compensations, remunerations, emoluments or other fixed or determinable annual or periodical gains, profits and income, paid or payable during any year to any taxpayer, shall make complete returns thereof under oath to the commissioner, under such regulations and conditions, in such form and manner and to such extent as may be prescribed by the commissioner, with the approval of the Governor; and, unless such payments are so reported, the commissioner may disallow such payments as deductions for credits in computing the tax of the payer. An exempt organization not subject to tax under the provisions of this article which fails to file the returns required by this section shall be notified of its delinquency and if such returns are not filed and the delinquency persists, the exemption from taxation enjoyed by the organization shall be forfeited.

(2) The commissioner may require material advisors and taxpayers required to notify the Internal Revenue Service of reportable transactions to notify the State Tax Commission of such transactions. The commissioner may require material advisors required to keep lists of reportable transactions for Internal Revenue Service purposes to do likewise for State Tax Commission purposes. The commissioner may specify the manner and method by which such transactions and lists must be reported as well as the scope of the information maintained and reported.

(3)(a) The Department of Revenue shall revise the individual income tax forms used for returns to include one or more additional lines to allow an individual taxpayer to designate:

(i) Up to two (2) bank accounts for direct deposit of the taxpayer's refund; and

(ii) The allocation of the taxpayer's refund amount between the designated bank accounts.

(b) The provisions of this subsection (3) shall be applicable to all income tax forms used for tax years beginning on or after January 1, 2021.

HISTORY: Codes, 1942, § 9220-20; Laws, 1934, ch. 120; Laws, 1952, ch. 402, § 19; Laws, 1958, ch. 554, § 5; Laws, 2008, ch. 433, § 4, eff from and after July 1, 2008; Laws, 2020, ch. 318, § 1, eff from and after July 1, 2020.

Amendment Notes — The 2020 amendment added (3).

§ 27-7-83. Confidentiality of reports and returns; release of certain information under certain circumstances.

(1) Returns and return information filed or furnished under the provisions of this chapter shall be confidential, and except in accordance with proper judicial order, as otherwise authorized by this section, as authorized in Section 27-4-3 or as authorized under Section 27-7-821, it shall be unlawful for the Commissioner of Revenue or any deputy, agent, clerk or other officer or employee of the Department of Revenue or the Mississippi Department of Information Technology Services, or any former employee thereof, to divulge or make known in any manner the amount of income or any particulars set forth or disclosed in any report or return required. The provisions of this section shall apply fully to any federal return, a copy of any portion of a federal return, or any information reflected on a federal return which is attached to or made a part of the state tax return. Likewise, the provisions of this section shall apply to any federal return or portion thereof, or to any federal return information data which is acquired from the Internal Revenue Service for state tax administration purposes pursuant to the Federal-State Exchange Program cited at Section 6103, Federal Internal Revenue Code. The term "proper judicial order" as used in this section shall not include subpoenas or subpoenas duces tecum, but shall include only those orders entered by a court of record in this state after furnishing notice and a hearing to the taxpayer and the Department of Revenue. The court shall not authorize the furnishing of such information unless it is satisfied that the information is needed to pursue pending litigation wherein the return itself is in issue, or the judge is satisfied that the need for furnishing the information outweighs the rights of the taxpayer to have such information secreted.

(2) Returns and return information with respect to taxes imposed by this chapter shall be open to inspection by or disclosure to the Commissioner of the Internal Revenue Service of the United States, or the proper officer of any state imposing an income tax similar to that imposed by this chapter, or the authorized representatives of such agencies. Such inspection shall be permitted, or such disclosure made, only upon written request by the head of such agencies, or the district director in the case of the Internal Revenue Service,

and only to the representatives of such agencies designated in a written statement to the Commissioner of Revenue as the individuals who are to inspect or to receive the return or return information on behalf of such agency. The Commissioner of Revenue is authorized to enter into agreements with the Internal Revenue Service and with other states for the exchange of returns and return information data, or the disclosure of returns or return information data to such agencies, only to the extent that the statutes of the United States or of such other state, as the case may be, grant substantially similar privileges to the proper officer of this state charged with the administration of the tax laws of this state.

(3)(a) The return of a person shall, upon written request, be open to inspection by or disclosure to:

(i) In the case of the return of an individual, that individual;

(ii) In the case of an income tax return filed jointly, either of the individuals with respect to whom the return is filed;

(iii) In the case of the return of a partnership, any person who was a member of such partnership during any part of the period covered by the return;

(iv) In the case of the return of a corporation or a subsidiary thereof, any person designated by resolution of its board of directors or other similar governing body, or any officer or employee of such corporation upon written request signed by any principal officer and attested to by the secretary or other officer;

(v) In the case of the return of an estate, the administrator, executor or trustee of such estate, and any heir at law, next of kin or beneficiary under the will, of the decedent, but only to the extent that such latter persons have a material interest which will be affected by information contained therein;

(vi) In the case of the return of a trust, the trustee or trustees, jointly or separately, and any beneficiary of such trust, but only to the extent that such beneficiary has a material interest which will be affected by information contained therein;

(vii) In the case of the return of an individual or a return filed jointly, any claimant agency or claimant local government seeking to collect a debt through the setoff procedure established in Sections 27-7-701 through 27-7-713, Sections 27-7-501 through 27-7-519 and/or Sections 27-7-801 through 27-7-823, as the case may be, from an individual with respect to whom the return is filed.

(b) If an individual described in paragraph (a) is legally incompetent, the applicable return shall, upon written request, be open to inspection by or disclosure to the committee, trustee or guardian of his estate.

(c) If substantially all of the property of the person with respect to whom the return is filed is in the hands of a trustee in bankruptcy or receiver, such return or returns for prior years of such person shall, upon written request, be open to inspection by or disclosure to such trustee or receiver, but only if the Commissioner of Revenue finds that such receiver or

trustee, in his fiduciary capacity, has a material interest which will be affected by information contained therein.

(d) Any return to which this section applies shall, upon written request, also be open to inspection by or disclosure to the attorney-in-fact duly authorized in writing by any of the persons described in paragraph (a) of this subsection to inspect the return or receive the information on his behalf, subject to the conditions provided in paragraph (a).

(e) Return information with respect to any taxpayer may be open to inspection by or disclosure to any person authorized by this subsection to inspect any return of such taxpayer if the Commissioner of Revenue determines that such disclosure would not seriously impair state tax administration.

(4) The State Auditor and the employees of his office shall have the right to examine only such tax returns as are necessary for auditing the Department of Revenue and auditing benefits administered under the United States Department of Health and Human Services and the United States Department of Agriculture. The State Auditor and the employees of his office may make information related to auditing such benefits available to and may exchange the information with state agencies responsible for the administration of the benefits. Except as otherwise provided in this subsection (4), the same prohibitions against disclosure which apply to the Department of Revenue shall apply to the State Auditor and his employees or former employees.

(5) Officers and employees of the Mississippi Development Authority who execute a confidentiality agreement with the Department of Revenue shall be authorized to discuss and examine information to which this section applies at the offices of the Mississippi Department of Revenue. This disclosure is limited to information necessary to properly administer the programs under the jurisdiction of the Mississippi Development Authority. The Department of Revenue is authorized to disclose to officers and employees of the Mississippi Development Authority who execute a confidentiality agreement the information necessary under the circumstances. The same prohibitions against disclosure which apply to the Department of Revenue shall apply to the officers or employees of the Mississippi Development Authority.

(6) Information required by the University Research Center to prepare the analyses required by Sections 57-13-101 through 57-13-109 shall be furnished to the University Research Center upon request. It shall be unlawful for any officer or employee of the University Research Center to divulge or make known in any manner the amount of income or any particulars set forth or disclosed in any information received by the center from the Department of Revenue other than as may be required by Sections 57-13-101 through 57-13-109 in an analysis prepared pursuant to Sections 57-13-101 through 57-13-109.

(7) Information required by the Mississippi Development Authority to prepare the reports required by Section 57-1-12.2 shall be furnished to the Mississippi Development Authority upon request. It shall be unlawful for any officer or employee of the Mississippi Development Authority to divulge or

make known in any manner the amount of income or any particulars set forth or disclosed in any information received by the Mississippi Development Authority from the Department of Revenue other than as may be required by Section 57-1-12.2 in a report prepared pursuant to Section 57-1-12.2.

(8) Information necessary to comply with Chapter 13, Title 85, may be furnished to financial institutions. It shall be unlawful for any officer or employee of the financial institution to divulge or make known in any manner the amount of income or any particulars set forth or disclosed in any information received by the financial institution from the Department of Revenue other than as may be authorized by Chapter 13, Title 85.

(9) Nothing in this section shall be construed to prohibit the publication of statistics, so classified as to prevent the identification of particular reports or returns and the items thereof, or the inspection by the Attorney General, or any other attorney representing the state, of the report or return of any taxpayer who shall bring action to set aside the tax thereon, or against whom any action or proceeding has been instituted to recover any tax or penalty imposed.

(10) Nothing in this section shall prohibit the commissioner from making available information necessary to recover taxes owing the state pursuant to the authority granted in Section 27-75-16.

(11) Reports and returns required under the provisions of this chapter shall be preserved in accordance with approved records control schedules. No records, however, may be destroyed without the approval of the Director of the Department of Archives and History.

(12) The Department of Revenue is authorized to disclose to the Child Support Unit and to the Fraud Investigation Unit of the Department of Human Services without the need for a subpoena or proper judicial order the name, address, social security number, amount of income, source of income, assets and other relevant information, records and tax forms for individuals who are delinquent in the payment of any child support as defined in Section 93-11-101 or who are under investigation for fraud or abuse of any state or federal program or statute as provided in Section 43-1-23.

(13) Nothing in this section shall prohibit the Department of Revenue from exchanging information with the federal government that is necessary to offset income tax refund payment on debts owed to this state or the United States.

(14) Nothing in this section shall prohibit the department from making available information that is necessary to be disclosed for the administration and enforcement of Section 27-7-87.

HISTORY: Codes, 1942, § 9220-35; Laws, 1934, ch. 120; Laws, 1952, ch. 402, § 34; Laws, 1975, ch. 516, § 2; Laws, 1978, ch. 342, § 1; Laws, 1981, ch. 501, § 21; Laws, 1984; ch. 447, § 3; Laws, 1985, ch. 364, § 11; Laws, 1985, ch. 464, § 8; Laws, 1988, ch. 349, § 3; Laws, 1997, ch. 588, § 145; Laws, 2004, ch. 516, § 3; Laws, 2010, ch. 327, § 2; Laws, 2010, ch. 385, § 2; Laws, 2010, ch. 388, § 3; Laws, 2010, ch. 481, § 2; Laws, 2014, ch. 517, § 9; Laws, 2017, ch. 407, § 6, eff from and after July 1, 2017; Laws, 2019, ch. 345, § 13, eff from and after January 1, 2019; Laws, 2020,

ch. 301, § 1, eff from and after passage (became law without the Governor's signature on March 11, 2020).

Amendment Notes — The 2019 amendment, effective January 1, 2019, in (1), inserted "or as authorized under Section 27-7-821" and made a related change; and in (3)(a)(vii), inserted "or claimant local government" and "and/or Sections 27-7-801 through 27-7-823, as the case may be" and made a related change.

The 2020 amendment, effective March 11, 2020, rewrote (4), which read: "The State Auditor and the employees of his office shall have the right to examine only such tax returns as are necessary for auditing the Department of Revenue, and the same prohibitions against disclosure which apply to the Department of Revenue shall apply to the State Auditor and his employees or former employees."

§ 27-7-107. Repealed.

Repealed by Laws, 2018, ch. 395, § 3, eff from and after July 1, 2018.
§ 27-7-107. [Laws, 2009, ch. 418, § 2, eff from and after July 1, 2009.]

Former § 27-7-107 provided that resident individuals could make a contribution to the Mississippi Bicentennial Celebration Fund from their tax refunds.

§ 27-7-109. Deductions for payments paid with funds received under Paycheck Protection Program; when allowed.

There shall not be allowed a deduction for otherwise deductible payments paid with funds received under the Paycheck Protection Program (PPP) established by the Coronavirus Aid, Relief, and Economic Security (CARES) Act, but only to the extent those payments are not allowed as deductions for federal income tax purposes. To the extent such payments are allowed as deductions for federal income tax purposes, those expenses shall be deemed to have been incurred in connection with earning and distributing taxable income, notwithstanding that such payments resulted in forgiveness of loans received.

HISTORY: Laws, 2020, ch. 303, § 11, eff from and after passage (approved May 20, 2020); Laws, 2020, ch. 421, § 3, eff from and after January 1, 2020; Laws, 2020, ch. 494, § 1, eff from and after passage (became law without the Governor's signature on August 18, 2020).

Joint Legislative Committee Notes — Section 11 of Chapter 303, Laws of 2020, effective from and after passage (approved May 20, 2020), added this section. Section 3 of Chapter 421, Laws of 2020, effective from and after January 1, 2020, amended this section. Section 1 of Chapter 494, Laws of 2020, effective from and after passage (became law without the Governor's signature on August 18, 2020), also amended this section. As set out above, this section reflects the language of amendments by Chapter 421 and Chapter 494, pursuant to Section 1-1-109, which gives the Joint Legislative Committee on Compilation, Revision, and Publication of Legislation authority to integrate amendments so that all versions of the same code section amended within the same legislative session may become effective. The Joint Committee on Compilation, Revision, and Publication of Legislation ratified the integration of these amendments as consistent with the legislative intent at the October 19, 2020, meeting of the Committee.

Editor's Notes — Laws of 2020, ch. 303, §§ 3 and 12, effective May 20, 2020, as

amended by Laws of 2020, ch. 494, § 1, effective August 18, 2020, provide:

"SECTION 3. The Legislature intends to provide economic support to eligible Mississippi businesses for costs incurred in connection with the Coronavirus Disease 2019 (COVID-19), including business interruption caused by forced closures or restricted operations resulting from voluntary closures instituted to promote social distancing measures, decreased customer demand, cleaning or disinfection, and provision of personal protective equipment. Eligible expenses shall not include any damage paid by business interruption insurance or disallowed by Section 5001 of the Coronavirus Aid, Relief, and Economic Security (CARES) Act or any guidance or regulation issued by the United States Department of the Treasury in conformity therewith.

"In order to expedite payment to businesses in need of economic support due to required or voluntary closures related to COVID-19, while minimizing administrative costs and delays, the Legislature finds that a direct payment of Two Thousand Dollars ($2,000.00) per business is a necessary cost, as provided for in Section 4 of this act. This payment is specifically to compensate these businesses for an initial compliance with the Governor's State of Emergency COVID-19 Proclamation issued on March 14, 2020. As such, this payment is not related to and is separate and distinct from any eligible expense that is reimbursable from the Back to Business Program. The Legislature finds further that an application process is warranted for the provision of additional compensation, whereby eligible businesses not wishing to itemize their expenses may receive, subject to approval, a base payment of Three Thousand Five Hundred Dollars ($3,500.00) plus Five Hundred Dollars ($500.00) per full-time equivalent employee as a reasonable estimate of their costs incurred, as provided for in Sections 5 through 10 of this act.

"SECTION 12. If any section, paragraph, sentence, clause, phrase or any part of this act is declared to be in conflict with federal law, or if for any reason is declared to be invalid or of no effect, the remaining sections, paragraphs, sentences, clauses, phrases or parts thereof shall be in no manner affected thereby but shall remain in full force and effect."

Laws of 2020, ch. 494, § 2, effective August 18, 2020, provides:

"SECTION 2. All changes made in this act to Senate Bill No. 2772, 2020 Regular Session [Chapter 303, Laws of 2020], shall be retroactive to May 20, 2020."

Amendment Notes — The first 2020 amendment (ch. 421), effective January 1, 2020, rewrote the section, which read: "Funds received under the Paycheck Protection Program (PPP) shall not be subject to tax; however, eligible expenses for which PPP funds are received may not be itemized as tax deductions."

The second 2020 amendment (ch. 494), effective August 18, 2020, made no changes in this section as it was enacted by Laws of 2020, ch. 303, § 11

Federal Aspects— Coronavirus Aid, Relief, and Economic Security Act (CARES Act), see P.L. 116-136.

ARTICLE 2.

ENDOW MISSISSIPPI PROGRAM

Sec.

27-7-201. Short title.
27-7-203. Legislative purpose.
27-7-205. Definitions.
27-7-207. Credit against tax imposed by this chapter equal to 25% of qualified contribution to endowed fund at qualified community foundation subject to certain requirements.
27-7-209. Allocation of authorized tax credits; maintenance of records that determine priority for awarding tax credits.

Sec.
27-7-211. Development of forms, procedures for review and approval of applications for tax credits, and issuance of tax credits; establishment of reporting and monitoring requirements; monitoring and annual certification of approved tax credits.
27-7-213. Tax credits are non-transferable; process for allocation of available tax credits if less than requested; periodic reporting of impact of tax credits.

§ 27-7-201. Short title.

This article shall be known and may be cited as the "Endow Mississippi Program."

HISTORY: Laws, 2019, ch. 440, § 1, eff from and after January 1, 2019.

§ 27-7-203. Legislative purpose.

The purpose of this article is to promote philanthropic investments in local community development programs and activities, and to enhance the quality of life for Mississippi's children, families and communities, by providing a tax credit for charitable gifts made by taxpayers to endowed funds held by community foundations in Mississippi.

HISTORY: Laws, 2019, ch. 440, § 2, eff from and after January 1, 2019.

§ 27-7-205 Definitions.

As used in this article:

(a) "Qualified community foundation" means an entity that is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code that is recognized by the Mississippi Association of Grantmakers as meeting the following requirements:

(i) It is organized by articles of incorporation in the State of Mississippi to serve the State of Mississippi, or one or more Mississippi counties or municipalities, or a combination thereof;

(ii) It is comprised of permanent, component funds established by multiple separate donors;

(iii) It supports broad-based charitable interests that benefit the residents of a defined geographic area, no larger than the State of Mississippi;

(iv) It is directed by a board of directors that is comprised of community representatives and is independent in that it is not subject to the control of another entity;

(v) It actively engages in charitable activities, including, but not limited to, supporting two (2) or more unaffiliated tax-exempt organizations through grants or other professionally accepted means of charitable support, and serving in leadership roles on important community issues;

(vi) It complies with the guidelines of the Mississippi Association of Grantmakers, or its successor entity, for membership by a community foundation; and

(vii) It is in good standing with having complied with Endow Mississippi certification, reporting, and data privacy requirements.

(b) "Endowment gift" means an irrevocable contribution to an endowed fund held by a qualified community foundation.

(c) "Qualified contribution" means an endowment gift of at least One Thousand Dollars ($1,000.00) made to a qualified community foundation for an endowed fund established to substantially benefit charitable causes in this state, and that is a charitable gift as defined in Section 170(c) of the Internal Revenue Code. A qualified contribution may take any form, subject to the giving policies of the qualified community foundation receiving it.

(d) "Endowed fund" means a fund held in a qualified community foundation that provides benefit to charitable causes in Mississippi that is intended to exist in perpetuity. An endowed fund may include, but is not limited to, donor-advised funds, community foundation affiliate funds, field-of-interest funds, agency funds and designated organizational funds.

HISTORY: Laws, 2019, ch. 440, § 3, eff from and after January 1, 2019.

§ 27-7-207. Credit against tax imposed by this chapter equal to 25% of qualified contribution to endowed fund at qualified community foundation subject to certain requirements.

(1) Subject to the limitations provided for in this section, through calendar year 2023 a taxpayer shall be allowed a credit against the tax imposed by Chapter 7, Title 27, in an amount equal to twenty-five percent (25%) of a qualified contribution to an endowed fund at a qualified community foundation, subject to the following:

(a) The minimum amount of a qualified contribution shall be One Thousand Dollars ($1,000.00).

(b) The maximum amount of a qualified contribution shall be Two Hundred Thousand Dollars ($200,000.00).

(c) The total qualified contributions from any qualified taxpayer eligible for the tax credit authorized under this section shall be Two Hundred Thousand Dollars ($200,000.00) per year.

(2) Except as otherwise provided in this subsection, the aggregate amount of tax credits authorized under this article shall not exceed Five Hundred Thousand Dollars ($500,000.00) in any one (1) calendar year. The credits shall be awarded on a first-come, first-served basis. If the tax credits authorized for used in any calendar year are not utilized, the amount not utilized may be awarded or carried forward in up to five (5) subsequent calendar years from the year in which such credits are made available.

(3) If the amount allowable as a credit exceeds the tax imposed by Chapter 7, Title 27, the amount of such excess may be carried forward for not more than five (5) subsequent taxable years.

(4) From and after January 1, 2024, no additional credits shall be authorized under this section; however, any tax credits authorized prior to

January 1, 2024, and not used, may be carried forward for not more than five (5) taxable years subsequent to calendar year 2023.

HISTORY: Laws, 2019, ch. 440, § 4, eff from and after January 1, 2019.

§ 27-7-209. Allocation of authorized tax credits; maintenance of records that determine priority for awarding tax credits.

For each calendar year, a total of ten percent (10%) of the authorized tax credits shall be reserved for qualified contributions to each of the qualified community foundations in Mississippi for a period of nine (9) months. Any credits that are not utilized within the nine-month period shall be utilized for qualified contributions to any qualified community foundation on a first-come, first-served basis. Any credits not specifically reserved under this section shall also be available to any qualified community foundation on a first-come, first-served basis. The Mississippi Association of Grantmakers, or its successor entity, shall, in cooperation with qualified community foundations, develop, establish and maintain records that determine the priority for the awarding of tax credits under this article.

HISTORY: Laws, 2019, ch. 440, § 5, eff from and after January 1, 2019.

§ 27-7-211. Development of forms, procedures for review and approval of applications for tax credits, and issuance of tax credits; establishment of reporting and monitoring requirements; monitoring and annual certification of approved tax credits.

(1) The Mississippi Association of Grantmakers, or its successor entity, in cooperation with qualified community foundations in Mississippi, shall develop application forms, procedures for the review and approval of applications for tax credits authorized under this article, for the issuance of tax credits authorized under this article, and to establish reporting and monitoring requirements for the tax credits authorized by this article. The Mississippi Association of Grantmakers, or its successor entity, shall also develop or revise forms by which the tax credits are reported to the State of Mississippi.

(2) Application forms shall be available online and in print from the Mississippi Association of Grantmakers, or its successor entity, and qualifying community foundations.

(3) Applications shall be filed jointly by the qualified taxpayer seeking the tax credit and the qualified community foundation that is to receive the proposed qualifying contribution. The qualified community foundation shall:

(a) Log the date and time each application is received;

(b) Review each application for compliance with this section;

(c) Forward required documentation for applications to the Mississippi Association of Grantmakers, or its successor entity; and

(d) Certify that the applications are for qualifying contributions that are eligible for tax credits.

(4) The Mississippi Association of Grantmakers, or its successor entity, shall review the applications and documentation. The Mississippi Association of Grantmakers, or its successor entity, shall provide lists of approved applications to qualified community foundations, who in turn shall issue notice of approval of tax credits to the taxpayer seeking the credit. Upon notice of approval, the qualifying contribution shall be made by the qualified taxpayer within a reasonable time, dependent on the form of the qualifying contribution and the giving policies of the qualified community foundation.

(5) The Mississippi Association of Grantmakers, or its successor entity, shall monitor all tax credits issued pursuant to this article and, on or before December 31 of each year, certify to the Mississippi Department of Revenue all tax credits approved pursuant to this article and provide the department with all data required to ensure that qualified taxpayers receive any credit to which they are entitled.

HISTORY: Laws, 2019, ch. 440, § 6, eff from and after January 1, 2019.

§ 27-7-213. Tax credits are non-transferable; process for allocation of available tax credits if less than requested; periodic reporting of impact of tax credits.

(1) No tax credits issued under this article to any qualified taxpayer shall be sold or otherwise transferable to any other taxpayer.

(2) Should the total amount of tax credits available, whether reserved to qualified community foundations or otherwise, be less than the total amount of tax credit requested under the provisions of this article, the Mississippi Association of Grantmakers, or its successor entity, shall determine the process for the allocation of any available tax credits.

(3) All applications for tax credits and any subsequent documentation of the process of application and issuance of tax credits shall be subject to applicable privacy laws.

(4) The Mississippi Association of Grantmakers, or its successor entity, may request qualifying community foundations to periodically report on the impact of tax credits issued under this article, including, but not limited to:

(a) Increases to endowed funds held by qualified community foundations;

(b) Capture of generational transfer of wealth for the benefit of Mississippi communities and organizations; and

(c) Improvements to and support of community development programs, projects and activities.

HISTORY: Laws, 2019, ch. 440, § 7, eff from and after January 1, 2019.

ARTICLE 7.

SETOFF AGAINST TAX REFUND FOR DEBT OWED ON DEFAULT ON EDUCATIONAL LOANS.

Sec.
27-7-701. Definitions.

§ 27-7-701. Definitions.

For the purposes of this article, the following terms shall have the respective meanings ascribed by this section:

(a) "Claimant agency" means the Board of Trustees of State Institutions of Higher Learning or any institution under the jurisdiction thereof, the Mississippi Guarantee Student Loan Agency, the Mississippi Postsecondary Education Financial Assistance Board, any public community or junior college, or any state agency which has loaned money to or is owed a debt by an individual for educational purposes.

(b) "Debtor" means any individual owing money or having a delinquent account with any claimant agency, which obligation has not been adjudicated satisfied by court order, set aside by court order, or discharged in bankruptcy.

(c) "Debt" means any liquidated sum due and owing any claimant agency which has accrued through contract, subrogation, tort or operation of law, regardless of whether there is an outstanding judgment for that sum.

(d) "Commission," "State Tax Commission" or "department" means the Department of Revenue of the State of Mississippi.

(e) "Refund" means the Mississippi income tax refund which the commission determines to be due any individual taxpayer.

HISTORY: Laws, 1985, ch. 464, § 1; Laws, 2009, ch. 492, § 48, eff from and after July 1, 2010; Laws, 2018, ch. 366, § 1, eff from and after July 1, 2018.

Amendment Notes — The 2018 amendment, in (a), inserted "Financial," "any public community or junior college" and "or is owed a debt by."

ARTICLE 8.

LOCAL GOVERNMENT DEBT COLLECTION SETOFF ACT

Sec.
27-7-801. Short title.
27-7-803. Legislative purpose.
27-7-805. Definitions.
27-7-807. Remedy to be in addition to others available.
27-7-809. Applicability of article.
27-7-811. Notice to debtor; hearing upon written request; appeals.

Sec.
27-7-813. Notice to department by claimant government; identification of debtor; determination of debtor's qualification for refund; notice to debtor of setoff.
27-7-815. Priority of multiple claims.
27-7-817. Collection assistance fee.
27-7-819. Transmittal of net proceeds collected to be accompanied by accounting of setoffs; credit of debtor's obligation with net proceeds collected.
27-7-821. Exchange of information necessary to effectuate article; confidentiality of information.
27-7-823. Promulgation of rules and regulations by department and local governments to implement and administer article.

§ 27-7-801. Short title.

This article shall be known as the "Local Government Debt Collection Setoff Act."

HISTORY: Laws, 2019, ch. 345, § 1, eff from and after January 1, 2019, eff from and after January 1, 2019.

§ 27-7-803. Legislative purpose.

The purpose of this article is to establish as public policy that all claimant local governments and the Department of Revenue shall cooperate in identifying debtors who owe money to local governments and who qualify for refunds from the Department of Revenue. It is also the intent of this article that procedures be established for setting off against any refund the sum of any debt owed to a local government. Furthermore, it is the legislative intent that this article be liberally construed so as to effectuate these purposes as far as legally and practically possible.

HISTORY: Laws, 2019, ch. 345, § 2, eff from and after January 1, 2019.

§ 27-7-805. Definitions.

As used in this article:

(a) "Claimant local government" means counties and municipalities acting through their nonprofit member organizations with respect to the collection of any debt owed and finalized by law, ordinance, order or resolution.

(b) "Debtor" means any person owing a debt to any claimant local government.

(c) "Debt" means any liquidated sum due and owing to any claimant local government which has accrued through contract, subrogation, tort, justice or municipal court conviction or any other debt regardless of whether there is an outstanding judgment for the sum.

(d) "Department" means the Mississippi Department of Revenue.

(e) "Local government" means a county or municipality.

(f) "Member organization" means the Mississippi Association of Supervisors for counties, the Mississippi Municipal League for municipalities, or

entities established through or contracted by these member organizations for the purpose of facilitating debt collection under this article.

(g) "Net proceeds collected" means gross proceeds collected through setoff against a debtor's refund less the collection assistance fees authorized in this article.

(h) "Person" means any individual, firm, partnership, association, trustee, receiver, assignee, corporation, entity, limited liability company, utility or joint venture.

(i) "Refund" means the Mississippi income tax refund which the department determines to be due a debtor.

(j) "Setoff" means the department's legal right to reduce the debtor's claim to a Mississippi income tax refund from the department by a debt the claimant local government properly establishes under this article which is owed by the debtor.

HISTORY: Laws, 2019, ch. 345, § 3, eff from and after January 1, 2019.

§ 27-7-807. Remedy to be in addition to others available.

(1) The collection remedy in this article is in addition to and not in substitution for any other remedy available by law.

(2) A local government may submit a debt owed to it for collection under this article. A local government that decides to submit a debt owed to it for collection under this article shall establish the debt by following the procedures set forth in Section 27-7-811 and shall submit the debt through a member organization.

HISTORY: Laws, 2019, ch. 345, § 4, eff from and after January 1, 2019.

§ 27-7-809. Applicability of article.

This article only applies to a debt that is at least Fifty Dollars ($50.00) and refunds to which the debtor is entitled of at least Fifty Dollars ($50.00). Different types of debts under Fifty Dollars ($50.00) may be combined to satisfy the debt threshold if they are owed by the same debtor.

HISTORY: Laws, 2019, ch. 345, § 5, eff from and after January 1, 2019.

§ 27-7-811. Notice to debtor; hearing upon written request; appeals.

(1) A local government may not submit a debt for collection under this article until it has given the notice required by this section and the claim has been finally determined as provided in this section.

(2) A local government, or its member organization on its behalf, shall send written notice to a debtor that the local government intends to submit the debt owed by the debtor for collection by setoff. The notice shall explain the basis for the local government's claim to the debt, that the local government

intends to apply the debtor's refund against the debt, and that a total collection assistance fee of twenty-five percent (25%) shall be added to the debt if it is submitted for setoff. The notice shall also inform the debtor that the debtor has the right to contest the matter by filing a request for a hearing with the local government, shall state the time limits and procedures for requesting a hearing and shall state that the failure to request a hearing within the required time will result in setoff of the debt.

(3) A debtor who decides to contest a proposed setoff shall file a written request for a hearing with the local government within thirty (30) days after the date the local government mails a notice of the proposed action to the debtor. A request for a hearing is considered to be filed when it is delivered for mailing with postage prepaid and properly addressed as required in the notice provided by the local government. The governing body of the local government or a person designated by the governing body shall hold the hearing. In a hearing under this section, any civil or criminal issue that has been litigated in a court proceeding cannot be reconsidered.

(4) A decision made after a hearing under this article shall determine whether a debt is owed to the local government and the amount of the debt.

(5) Appeals from hearings held under this article shall be made to the circuit court of the county in which the debtor resides and shall be reviewed on the administrative record made at the hearing before the local government. The standard of review of such decisions shall be that established by Mississippi law pertaining to the review of all other administrative decisions made by political subdivisions.

HISTORY: Laws, 2019, ch. 345, § 6, eff from and after January 1, 2019.

§ 27-7-813. Notice to department by claimant government; identification of debtor; determination of debtor's qualification for refund; notice to debtor of setoff.

(1) A claimant local government, or its member organization on its behalf, seeking to collect a debt through setoff shall notify the department in writing and supply information necessary to identify the debtor whose refund is sought to be setoff. The local government, or its member organization, shall notify the department in writing within sixty (60) days of when a debt of which the department has previously been noticed has been paid or is no longer owed to it.

(2) The department, upon receipt of notification, shall determine each year whether the debtor to the claimant local government is entitled to a refund of at least Fifty Dollars ($50.00) from the department. Upon determination by the department that a debtor specified by a claimant local government qualifies for such a refund, the department shall set off the debt against the refund to which the debtor would otherwise be entitled and shall refund any remaining balance to the debtor. The department shall mail the debtor written notice that the setoff has occurred and shall credit the net proceeds

collected to the claimant local government, after deducting the total collection assistance fee owed to the department and the member organization.

HISTORY: Laws, 2019, ch. 345, § 7, eff from and after January 1, 2019.

§ 27-7-815. Priority of multiple claims.

When there are multiple claims by two (2) or more member organizations submitting debts on behalf of local governments, the claims have priority based on the date each member organization filed the claim with the department. When there are multiple claims among local governments whose debts are submitted by the same member organization, the claims have priority based on the date each local government requested the member organization to submit the debts on its behalf. A claim submitted under Sections 27-7-501 through 27-7-519 shall have priority over a claim submitted under this article.

HISTORY: Laws, 2019, ch. 345, § 8, eff from and after January 1, 2019.

§ 27-7-817. Collection assistance fee.

To recover the costs incurred by the department and the member organization in collecting debts under this article, a total collection assistance fee of twenty-five percent (25%) shall be imposed on each debt collected through setoff. The department shall collect this fee as part of the debt and retain five percent (5%) for its administrative costs. The additional twenty percent (20%) shall be remitted to the member organization as payment for collection services rendered on behalf of its claimant local governments.

HISTORY: Laws, 2019, ch. 345, § 9, eff from and after January 1, 2019.

§ 27-7-819. Transmittal of net proceeds collected to be accompanied by accounting of setoffs; credit of debtor's obligation with net proceeds collected.

(1) Along with the transmittal of the net proceeds collected on behalf of the claimant local government, the department shall provide the local government with an accounting of the setoffs for which payment is being made. The accounting shall, whenever possible, include the full names of the debtors, the debtor's social security numbers or federal tax identification numbers, the gross proceeds collected per setoff, the net proceeds collected per setoff and the collection assistance fees added to the debt collected per setoff.

(2) Upon receipt by a claimant local government of net proceeds collected on the claimant local government's behalf by the department, the claimant local government shall credit the debtor's obligation with the net proceeds collected.

HISTORY: Laws, 2019, ch. 345, § 10, eff from and after January 1, 2019.

§ 27-7-821. Exchange of information necessary to effectuate article; confidentiality of information.

(1) The department, the local government or its member organization on its behalf may exchange information necessary to accomplish and effectuate the intent of this article.

(2) The information obtained by a local government or its member organization in accordance with the provisions of this article shall retain its confidentiality and shall only be used by the local government or member organization in the pursuit of its debt collection duties and practices; and any employee or former employee of any local government or its member organization who unlawfully discloses any such information for any other purpose, except as otherwise specifically authorized by law, shall be subject to the same penalties specified by law for unauthorized disclosure of confidential information by an agency or employee of the department.

HISTORY: Laws, 2019, ch. 345, § 11, eff from and after January 1, 2019.

§ 27-7-823. Promulgation of rules and regulations by department and local governments to implement and administer article.

The department shall promulgate rules and regulations pursuant to the Mississippi Administrative Procedures Act which are necessary to implement and carry out its duties and functions under this article. Local governments may also promulgate rules and regulations necessary for the local administration of their authority granted under this article.

HISTORY: Laws, 2019, ch. 345, § 12, eff from and after January 1, 2019.

CHAPTER 10.

UNIFORM ESTATE TAX APPORTIONMENT ACT

Sec.
27-10-1 through 27-10-25. Repealed.

§§ 27-10-1 through 27-10-25. Repealed.

Repealed by Laws, 2020, ch. 406, § 87, eff from and after July 1, 2020.

§ 27-10-1. [Laws, 1994, ch. 348, § 11, eff from and after January 1, 1995.]
§ 27-10-3. [Laws, 1994, ch. 348, § 10, eff from and after January 1, 1995.]
§ 27-10-5. [Laws, 1994, ch. 348, § 1, eff from and after January 1, 1995.]
§ 27-10-7. [Laws, 1994, ch. 348, § 2, eff from and after January 1, 1995.]
§ 27-10-9. [Laws, 1994, ch. 348, § 3, eff from and after January 1, 1995.]
§ 27-10-11. [Laws, 1994, ch. 348, § 4, eff from and after January 1, 1995.]
§ 27-10-13. [Laws, 1994, ch. 348, § 5, eff from and after January 1, 1995.]
§ 27-10-15. [Laws, 1994, ch. 348, § 6, eff from and after January 1, 1995.]

§ 27-10-17. [Laws, 1994, ch. 348, § 7, eff from and after January 1, 1995.]
§ 27-10-19. [Laws, 1994, ch. 348, § 8, eff from and after January 1, 1995.]
§ 27-10-21. [Laws, 1994, ch. 348, § 9, eff from and after January 1, 1995.]
§ 27-10-23. [Laws, 1994, ch. 348, § 12, eff from and after January 1, 1995.]
§ 27-10-25. [Laws, 1994, ch. 348, § 13, eff from and after January 1, 1995.]

Editor's Note — Former § 27-10-1 provided the short title of the chapter.
Former § 27-10-3 related to uniformity of interpretation of the chapter.
Former § 27-10-5 provided the definitions of terms used in the chapter.
Former § 27-10-7 provided for the apportionment of tax among all persons interested in the estate.
Former § 27-10-9 provided procedures for determining the apportionment of the tax.
Former § 27-10-11 provided the method of proration.
Former § 27-10-13 provided allowances for exemptions, deductions and credits.
Former § 27-10-15 provided there was no apportionment between temporary and remainder interests.
Former § 27-10-17 related to the exoneration of the fiduciary.
Former § 27-10-19 related to actions by nonresidents and reciprocity.
Former § 27-10-21 related to coordination with federal law.
Former § 27-10-23 related to severability.
Former § 27-10-25 related to the applicability of the chapter.

CHAPTER 13.

CORPORATION FRANCHISE TAX

Sec.
27-13-5. Tax on domestic corporations [Repealed effective January 1, 2028].
27-13-7. Tax on foreign corporations [Repealed effective January 1, 2028].

§ 27-13-5. Tax on domestic corporations [Repealed effective January 1, 2028].

(1)(a) **Franchise tax levy.** Except as otherwise provided in subsections (3), (4), (5) and (7) of this section, there is hereby imposed, to be paid and collected as hereinafter provided, a franchise or excise tax upon every corporation, association or joint-stock company or partnership treated as a corporation under the income tax laws or regulations, organized or created for pecuniary gain, having privileges not possessed by individuals, and having authorized capital stock now existing in this state, or hereafter organized, created or established, under and by virtue of the laws of the State of Mississippi, equal to:

(i) For tax years beginning before January 1, 2018, Two Dollars and Fifty Cents ($2.50) for each One Thousand Dollars ($1,000.00), or fraction thereof, of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(ii) For tax years beginning on or after January 1, 2018, but before January 1, 2019, Two Dollars and Fifty Cents ($2.50) for each One Thousand Dollars ($1,000.00), or fraction thereof, in excess of One Hun-

dred Thousand Dollars ($100,000.00), of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(iii) For tax years beginning on or after January 1, 2019, but before January 1, 2020, Two Dollars and Twenty-five Cents ($2.25) for each One Thousand Dollars ($1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars ($100,000.00), of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(iv) For tax years beginning on or after January 1, 2020, but before January 1, 2021, Two Dollars ($2.00) for each One Thousand Dollars ($1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars ($100,000.00), of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(v) For tax years beginning on or after January 1, 2021, but before January 1, 2022, One Dollar and Seventy-five Cents ($1.75) for each One Thousand Dollars ($1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars ($100,000.00), of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(vi) For tax years beginning on or after January 1, 2022, but before January 1, 2023, One Dollar and Fifty Cents ($1.50) for each One Thousand Dollars ($1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars ($100,000.00), of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(vii) For tax years beginning on or after January 1, 2023, but before January 1, 2024, One Dollar and Twenty-five Cents ($1.25) for each One Thousand Dollars ($1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars ($100,000.00), of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(viii) For tax years beginning on or after January 1, 2024, but before January 1, 2025, One Dollar ($1.00) for each One Thousand Dollars ($1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars ($100,000.00), of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(ix) For tax years beginning on or after January 1, 2025, but before January 1, 2026, Seventy-five Cents (75¢) for each One Thousand Dollars

($1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars ($100,000.00), of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(x) For tax years beginning on or after January 1, 2026, but before January 1, 2027, Fifty Cents (50¢) for each One Thousand Dollars ($1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars ($100,000.00), of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(xi) For tax years beginning on or after January 1, 2027, but before January 1, 2028, Twenty-five Cents (25¢) for each One Thousand Dollars ($1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars ($100,000.00), of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(b) In no case shall the franchise tax due for the accounting period be less than Twenty-five Dollars ($25.00).

(c) It is the purpose of this section to require the payment to the State of Mississippi of this tax for the right granted by the laws of this state to exist as such organization, and to enjoy, under the protection of the laws of this state, the powers, rights, privileges and immunities derived from the state by the form of such existence.

(2) **Annual report of domestic corporations.** Each domestic corporation shall file an annual report as required by the provisions of Section 79-4-16.22.

(3)(a) A corporation that has negotiated a fee-in-lieu as defined in Section 57-75-5 shall not be subject to the tax levied by this section on such project; however, the fee-in-lieu payment shall be otherwise treated in the same manner as the payment of franchise taxes.

(b)(i) As used in this paragraph:

1. "Authority" shall have the meaning ascribed to such term in Section 57-75-5(b);

2. "Project" shall have the meaning ascribed to such term in Section 57-75-5(f)(xxix); and

3. "Enterprise" shall mean the corporation authorized for the project pursuant to Section 57-75-5(f)(xxix).

(ii) The term of the franchise tax fee-in-lieu agreement negotiated under this subsection and authorized by Section 57-75-5(j), between the authority and the enterprise for the project shall not exceed twenty-five (25) years. The franchise tax fee-in-lieu agreement shall apply only to new franchise tax liability attributable to the project, and shall not apply to any existing franchise tax liability of the enterprise in connection with any current operations in this state.

(iii) In the event that the annual number of full-time jobs maintained by the enterprise falls below the minimum annual number of full-time jobs

required by the authority pursuant to a written agreement between the authority and the enterprise for two (2) consecutive years, the franchise tax fee-in-lieu for the project shall be suspended until the first tax year during which the annual number of full-time jobs maintained by the enterprise reaches the minimum annual number of full-time jobs required by the authority pursuant to a written agreement between the authority and the enterprise.

(iv) The enterprise shall be entitled to utilize a single sales apportionment factor in the calculation of its liability for franchise tax imposed by this chapter which is attributable to the project for any year for which it files a Mississippi franchise tax return. The enterprise shall be entitled to continue to utilize such single sales apportionment factor notwithstanding a suspension of the franchise tax fee-in-lieu pursuant to subparagraph (iii) of this paragraph.

(4) An approved business enterprise as defined in the Growth and Prosperity Act shall not be subject to the tax levied by this section on the value of capital used, invested or employed by the approved business enterprise in a growth and prosperity county or supervisors district as provided in the Growth and Prosperity Act.

(5) A business enterprise operating a project as defined in Section 57-64-33, in a county that is a member of a regional economic development alliance created under the Regional Economic Development Act shall not be subject to the tax levied by this section on the value of capital used, invested or employed by the business enterprise in such a county as provided in Section 57-64-33.

(6) The tax levied by this chapter and paid by a business enterprise located in a redevelopment project area under Sections 57-91-1 through 57-91-11 shall be deposited into the Redevelopment Project Incentive Fund created in Section 57-91-9.

(7) A business enterprise as defined in Section 57-113-1 or 57-113-21 that is exempt from certain state taxes under Section 57-113-5 or 57-113-25 shall not be subject to the tax levied by this section on the value of capital used, invested or employed by the business enterprise.

HISTORY: Codes, 1942, § 9313; Laws, 1934, ch. 121; Laws, 1940, ch. 115; Laws, 1955, Ex. ch. 118, § 1; Laws, 1962, ch. 589, § 1; Laws, 1964, ch. 512, § 1; Laws, 1975, ch. 467, § 2; Laws, 1982, ch. 489, § 8; Laws, 1989, ch. 485, § 5; Laws, 2000, 2nd Ex Sess, ch. 1, § 49; Laws, 2002, ch. 464, § 6; Laws, 2005, ch. 468, § 8; Laws, 2010, ch. 533, § 21; Laws, 2013, ch. 419, § 1 Laws, 2016, ch. 499, § 3; Laws, 2016, 1st Ex Sess, ch. 1, § 17, eff from and after Feb. 8, 2016; Laws, 2019, ch. 396, § 5, eff from and after July 1, 2019.

Amendment Notes — The 2019 amendment, in (7), inserted "or 57-113-21" and "or 57-113-25."

§ 27-13-7. Tax on foreign corporations [Repealed effective January 1, 2028].

(1)(a) **Franchise tax levy.** Except as otherwise provided in subsections (3), (4), (5) and (7) of this section, there is hereby imposed, levied and

assessed upon every corporation, association or joint-stock company, or partnership treated as a corporation under the income tax laws or regulations as hereinbefore defined, organized and existing under and by virtue of the laws of some other state, territory or country, or organized and existing without any specific statutory authority, now or hereafter doing business or exercising any power, privilege or right within this state, as hereinbefore defined, a franchise or excise tax equal to:

(i) For tax years beginning before January 1, 2018, Two Dollars and Fifty Cents ($2.50) of each One Thousand Dollars ($1,000.00), or fraction thereof, of the value of capital used, invested or employed within this state, except as hereinafter provided.

(ii) For tax years beginning on or after January 1, 2018, but before January 1, 2019, Two Dollars and Fifty Cents ($2.50) for each One Thousand Dollars ($1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars ($100,000.00), of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(iii) For tax years beginning on or after January 1, 2019, but before January 1, 2020, Two Dollars and Twenty-five Cents ($2.25) for each One Thousand Dollars ($1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars ($100,000.00), of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(iv) For tax years beginning on or after January 1, 2020, but before January 1, 2021, Two Dollars ($2.00) for each One Thousand Dollars ($1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars ($100,000.00), of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(v) For tax years beginning on or after January 1, 2021, but before January 1, 2022, One Dollar and Seventy-five Cents ($1.75) for each One Thousand Dollars ($1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars ($100,000.00), of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(vi) For tax years beginning on or after January 1, 2022, but before January 1, 2023, One Dollar and Fifty Cents ($1.50) for each One Thousand Dollars ($1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars ($100,000.00), of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(vii) For tax years beginning on or after January 1, 2023, but before January 1, 2024, One Dollar and Twenty-five Cents ($1.25) for each One

Thousand Dollars ($1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars ($100,000.00), of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(viii) For tax years beginning on or after January 1, 2024, but before January 1, 2025, One Dollar ($1.00) for each One Thousand Dollars ($1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars ($100,000.00), of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(ix) For tax years beginning on or after January 1, 2025, but before January 1, 2026, Seventy-five Cents (75¢) for each One Thousand Dollars ($1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars ($100,000.00), of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(x) For tax years beginning on or after January 1, 2026, but before January 1, 2027, Fifty Cents (50¢) for each One Thousand Dollars ($1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars ($100,000.00), of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(xi) For tax years beginning on or after January 1, 2027, but before January 1, 2028, Twenty-five Cents (25¢) for each One Thousand Dollars ($1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars ($100,000.00), of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(b) In no case shall the franchise tax due for the accounting period be less than Twenty-five Dollars ($25.00).

(c) It is the purpose of this section to require the payment of a tax by all organizations not organized under the laws of this state, measured by the amount of capital or its equivalent, for which such organization receives the benefit and protection of the government and laws of the state.

(2) **Annual report of foreign corporations.** Each foreign corporation authorized to transact business in this state shall file an annual report as required by the provisions of Section 79-4-16.22.

(3)(a) A corporation that has negotiated a fee-in-lieu as defined in Section 57-75-5 shall not be subject to the tax levied by this section on such project; however, the fee-in-lieu payment shall be otherwise treated in the same manner as the payment of franchise taxes.

(b)(i) As used in this paragraph:

1. "Authority" shall have the meaning ascribed to such term in Section 57-75-5(b);

2. "Project" shall have the meaning ascribed to such term in Section 57-75-5(f)(xxix); and

3. "Enterprise" shall mean the corporation authorized for the project pursuant to Section 57-75-5(f)(xxix).

(ii) The term of the franchise tax fee-in-lieu agreement negotiated under this subsection and authorized by Section 57-75-5(j), between the authority and the enterprise for the project shall not exceed twenty-five (25) years. The franchise tax fee-in-lieu agreement shall apply only to new franchise tax liability attributable to the project, and shall not apply to any existing franchise tax liability of the enterprise in connection with any current operations in this state.

(iii) In the event that the annual number of full-time jobs maintained by the enterprise falls below the minimum annual number of full-time jobs required by the authority pursuant to a written agreement between the authority and the enterprise for two (2) consecutive years, the franchise tax fee-in-lieu for the project shall be suspended until the first tax year during which the annual number of full-time jobs maintained by the enterprise reaches the minimum annual number of full-time jobs required by the authority pursuant to a written agreement between the authority and the enterprise.

(iv) The enterprise shall be entitled to utilize a single sales apportionment factor in the calculation of its liability for franchise tax imposed by this chapter which is attributable to the project for any year for which it files a Mississippi franchise tax return. The enterprise shall be entitled to continue to utilize such single sales apportionment factor notwithstanding a suspension of the franchise tax fee-in-lieu pursuant to subparagraph (iii) of this paragraph.

(4) An approved business enterprise as defined in the Growth and Prosperity Act shall not be subject to the tax levied by this section on the value of capital used, invested or employed by the approved business enterprise in a growth and prosperity county or supervisors district as provided in the Growth and Prosperity Act.

(5) A business enterprise operating a project as defined in Section 57-64-33, in a county that is a member of a regional economic development alliance created under the Regional Economic Development Act shall not be subject to the tax levied by this section on the value of capital used, invested or employed by the business enterprise in such a county as provided in Section 57-64-33.

(6) The tax levied by this chapter and paid by a business enterprise located in a redevelopment project area under Sections 57-91-1 through 57-91-11 shall be deposited into the Redevelopment Project Incentive Fund created in Section 57-91-9.

(7) A business enterprise as defined in Section 57-113-1 or 57-113-21 that is exempt from certain state taxes under Section 57-113-5 or 57-113-25 shall not be subject to the tax levied by this section on the value of capital used, invested or employed by the business enterprise.

HISTORY: Codes, 1942, § 9314; Laws, 1934, ch. 121; Laws, 1940, ch. 115; Laws, 1955, Ex. Ch. 118, § 2; Laws, 1962, ch. 589, § 2; Laws, 1964, ch. 512, § 2; Laws, 1975, ch. 467, § 3; Laws, 1982, ch. 489, § 9; Laws, 1989, ch. 485, § 6; Laws, 2000,

2nd Ex Sess, ch. 1, § 50; Laws, 2002, ch. 464, § 7; Laws, 2005, ch. 468, § 9; Laws, 2010, ch. 533, § 22; Laws, 2013, ch. 419, § 2; Laws, 2016, ch. 499, § 4; Laws, 2016, 1st Ex Sess, ch. 1, § 18, eff from and after Feb. 8, 2016; Laws, 2019, ch. 396, § 6, eff from and after July 1, 2019.

Amendment Notes — The 2019 amendment, in (7), inserted "or 57-113-21" and "or 57-113-25."

CHAPTER 15.

STATEWIDE PRIVILEGE TAXES

Insurance Taxes. 27-15-81

INSURANCE TAXES

Sec.

27-15-107. Premium taxes; four periodic estimated tax returns and payments; reconciliation return and final payment; reporting periods, amount of tax to be paid each reporting period, due dates; penalties; Department of Revenue to enforce.

§ 27-15-103. Premium taxes; foreign insurance companies and associations.

Cross References — Credit against taxes imposed by this section for certain business enterprises for voluntary cash contributions made by the business enterprise to eligible charitable organizations, see § 27-7-22.40.

§ 27-15-107. Premium taxes; four periodic estimated tax returns and payments; reconciliation return and final payment; reporting periods, amount of tax to be paid each reporting period, due dates; penalties; Department of Revenue to enforce.

(1) Every insurance company liable for the tax under the provisions hereof shall make and file with the Department of Revenue, estimated tax returns and payments for the insurance premium tax levied under Sections 27-15-103 and 27-15-109 for the first four (4) periods of each calendar year and a reconciliation return and payment for the final reporting period for each calendar year based on the actual liability of the insurance company for insurance premium taxes for that calendar year. The insurance company shall estimate the amount of insurance premium taxes to be due for each calendar year and pay insurance premium taxes based on a percentage of that estimate as provided for in subsection (2) of this section for the first four (4) reporting periods of each calendar year. In addition to reflecting the amount of estimated tax payment being paid, the estimated return shall also contain an estimate of the gross amount of premium receipts of the insurance company subject to the insurance premium tax under Sections 27-15-103 and 27-15-109 during the

reporting period. For the final reporting period for each calendar year, every insurance company shall file a reconciliation tax return reporting the balance of insurance premium taxes due for the calendar year based on insurance premiums actually received during the calendar year after the application of the estimated tax payments for the first four (4) reporting periods and any applicable credits, and pay the balance of insurance premium taxes due for the calendar year. The insurance company shall also pay with the reconciliation tax return any penalties and/or interest due for the calendar year, including any penalty and/or interest for underestimating the amount of estimated tax to be paid for the first four (4) reporting periods.

(2) The reporting periods, the amount of insurance premium tax to be paid for the reporting periods, and the due date for the tax return and payment for the reporting periods are as follows:

(a) For the first reporting period of January 1 through March 31, the percentage to be paid is one-fourth (1/4) of the estimated tax amount. The due date for the estimated return and payment is April 20.

(b) For the second reporting period of April 1 through May 31, the percentage to be paid is one-sixth (1/6) of the estimated tax amount. The due date for the estimated return and payment is June 20.

(c) For the third reporting period of June 1 through June 30, the percentage to be paid is one-twelfth (1/12) of the estimated tax amount. The due date for the estimated return and payment is July 20.

(d) For the fourth reporting period of July 1 through September 30, the percentage to be paid is one-fourth (1/4) of the estimated tax amount. The due date for the estimated return and payment is October 20.

(e) For the final reporting period of October 1 through December 31, the balance of insurance premium tax due for the calendar year shall be paid after application of estimated payments for the first four (4) reporting periods and any applicable credits are reported on a reconciliation tax return. The due date for the return and payment, including payment of any penalty and/or interest, is March 1.

(3) Any insurance company liable for the insurance premium tax levied under Sections 27-15-103 and 27-15-109 that fails to file an estimated tax return or a reconciliation tax return and fails to pay the required estimated tax payments with the estimated tax return or the balance of insurance premium tax with the reconciliation tax return by the due date for such return and payment, shall be liable for a penalty in the amount of ten percent (10%) of the payment due and interest at the rate of one-half of one percent (1/2 of 1%) per month from the due date of the payment until paid.

(4) Any insurance company that underestimates the estimated amount of insurance premium tax to be paid for any of the first four (4) reporting periods by more than ten percent (10%) shall be liable for penalty in the amount of ten percent (10%) of the amount by which the insurance company underestimated the amount of insurance premium tax due. The amount of this underestimate shall be determined by subtracting the amount paid for that reporting period from an amount determined by multiplying the actual annual insurance

premium taxes due for the calendar year times the percentage of estimated tax to be paid for the reporting period. The insurance company shall also be liable for interest on the underestimated amount at the rate of one-half of one percent (1/2 of 1%) per month from the due date for the reporting period until the insurance company pays the actual annual insurance premium taxes due for the calendar year in which the reporting period is included.

(5) The Department of Revenue shall have the authority to promulgate rules and regulations, not inconsistent with this article, as it may deem necessary to enforce its provisions.

HISTORY: Codes, 1942, § 9537-03; Laws, 1956, ch. 337, § 3; Laws, 1982, ch. 351, § 2; Laws, 1988, ch. 330; Laws, 1994, ch. 502, § 1; Laws, 2002, ch. 539, § 4; Laws, 2008, ch. 330, § 1; Laws, 2009, ch. 352, § 1; Laws, 2014, ch. 419, § 1, eff from and after Jan. 1, 2014; Laws, 2020, ch. 372, § 1, eff from and after July 1, 2020.

Amendment Notes — The 2020 amendment substituted "one-half of one percent (1/2 of 1%)" for " one percent (1%)" in (3) and (4).

§ 27-15-109. Premium taxes; domestic companies.

Cross References — Credit against taxes imposed by this section for certain business enterprises for voluntary cash contributions made by the business enterprise to eligible charitable organizations, see § 27-7-22.40.

§ 27-15-123. Premium retaliatory tax; imposition.

Cross References — Credit against taxes imposed by this section for certain business enterprises for voluntary cash contributions made by the business enterprise to eligible charitable organizations, see § 27-7-22.40.

CHAPTER 17.

LOCAL PRIVILEGE TAXES

General Administrative Provisions Applicable to Chapter. 27-17-451

GENERAL ADMINISTRATIVE PROVISIONS APPLICABLE TO CHAPTER

Sec.
27-17-455. License; issuance and duration.
27-17-475. County auditor to have licenses printed.
27-17-493. Disposition of monies collected; privilege tax record to be kept.

§ 27-17-453. License; taxpayer to make application.

HISTORY: Codes, 1942, § 9696-207; Laws, 1944, ch. 137, § 203; Laws, 1988, ch. 505, § 5; Laws, 1994, ch. 306, § 1, eff from and after July 1, 1994; brought forward without change, Laws, 2018, ch. 357, § 4, eff from and after July 1, 2018.

Editor's Notes — This section was brought forward without change by Laws of 2018, ch. 357, § 4, effective from and after July 1, 2018. Since the language of the section as it appears in the main volume is unaffected by the bringing forward of the section, it is not reprinted in this supplement.

Amendment Notes — The 2018 amendment brought the section forward without change.

§ 27-17-455. License; issuance and duration.

Upon the receipt of the application herein required, and payment of the amount shown thereby to be due for the privilege to be exercised, the officer to whom said application is made shall determine if the application is in proper form, and if the correct amount be tendered, and may require the applicant to furnish such other and further information as in his opinion is necessary to ascertain the correct amount of tax due. When the correct amount of the tax has been so ascertained, the said officer shall issue to the applicant taxpayer a privilege license according to such application, and shall date the same as of the first day of the month of its issuance. The officer issuing the license shall countersign the same in writing or alternatively, by electronic or digital signature or a handwritten signature saved on a computer, when the license is issued by him, and he shall enter the same in the register prescribed by law therefor. The license issued by collectors as herein provided shall be executed in duplicate, which duplicate may be in the form of a paper copy or electronic document. The original shall be delivered to the licensee by the officer, and the paper or electronic duplicate, as the case may be, shall be attached or electronically linked to or otherwise maintained with the application therefor, and preserved by the officer as a public record.

If, however, such officer, shall, before issuing the said license, or at any time thereafter, have reason to believe that the statements of the business contained in the application are incorrect or false in any material particular, the said officer shall duly notify the applicant wherein the supposed discrepancy lies, and he is hereby empowered to require the applicant to render such other information as will enable him to determine the proper tax due. After making such determination of the proper tax due, if the license has not been issued, such officer shall forthwith proceed to collect the amount of tax due; and if the license shall have been issued under the original application, he shall collect the difference between the sum shown to be properly due, and the sum paid with the original application, and shall issue an additional license therefor which shall expire at the same time as the original. If the additional tax is paid within thirty (30) days after the determination by the officer of the proper amount due, no penalty shall be applied. If the taxpayer shall willfully fail or refuse to furnish the information requested by such officer, he shall be liable for damages as in other cases of payment of an insufficient privilege tax, and may be proceeded against civilly or criminally as otherwise provided herein, and shall suffer the penalties provided herein therefor.

All licenses issued pursuant to this section shall be good, usable and valid for one (1) year after the date thereof, or for such other period as is fixed by law

for the privilege, which period shall be so designated in the license. However, no such license shall be issued for a period longer than one (1) year.

HISTORY: Codes, 1942, §§ 9696-01, 9696-208; Laws, 1944, ch. 137, §§ 1, 204, eff from and after June 1, 1944; Laws, 2018, ch. 357, § 1, eff from and after July 1, 2018.

Amendment Notes — The 2018 amendment, in the first paragraph, inserted "in writing or alternatively, by electronic or digital signature or a handwritten signature saved on a computer" and "the license is" in the third sentence, "which duplicate may be in the form of a paper copy or electronic document" in the fourth sentence, and "paper or electronic," "as the case may be," "or electronically linked" and "or otherwise maintained with" in the last sentence.

§ 27-17-463. License may be taken for part of year, when.

HISTORY: Codes, 1942, § 9696-211; Laws, 1944, ch. 137, § 207; Laws, 1988, ch. 505, § 6, eff from and after July 1, 1988; brought forward without change, Laws, 2018, ch. 357, § 5, eff from and after July 1, 2018.

Editor's Notes — This section was brought forward without change by Laws of 2018, ch. 357, § 5, effective from and after July 1, 2018. Since the language of the section as it appears in the main volume is unaffected by the bringing forward of the section, it is not reprinted in this supplement.

Amendment Notes — The 2018 amendment brought the section forward without change.

§ 27-17-475. County auditor to have licenses printed.

It shall be the duty of the county auditor or of the governing body of a municipality to prepare and have printed and distributed to the officer collecting the tax the proper privilege tax license blanks necessary to carry into effect any law relating to privilege taxes. There shall be printed on each license at the bottom thereof the words "this license shall not make lawful any act or thing declared to be unlawful by the State of Mississippi." All such privilege license blanks shall be printed in the form prescribed by the county auditor or in the case of a municipality, by the governing body of a municipality. The privilege license blanks shall be imprinted with the fiscal year for which the blanks are to be issued and shall be numbered consecutively for each fiscal year. The privilege license blanks shall be made in duplicate, which duplicate may be in the form of a paper copy or electronic document. The original and paper or electronic duplicate, as the case may be, must bear the same serial number and be alike in all respects except that they must be marked "original" and "duplicate." If a paper duplicate is used, the original and duplicate shall be of different colors.

HISTORY: Codes, 1942, § 9696-221; Laws, 1944, ch. 137, § 217, eff from and after June 1, 1944; Laws, 2018, ch. 357, § 2, eff from and after July 1, 2018.

Amendment Notes — The 2018 amendment rewrote the section, which read: "It shall be the duty of the county auditor or of the governing body of a municipality to

prepare and have printed and distributed to the officer collecting the tax the proper privilege tax license blanks necessary to carry into effect any law relating to privilege taxes, and there shall be printed on each license at the bottom thereof the words "this license shall not make lawful any act or thing declared to be unlawful by the State of Mississippi." All such privilege license blanks shall be printed in the form prescribed by the county auditor or in the case of a municipality by the governing body of a municipality and shall be imprinted with the fiscal year for which the blanks are to be issued and shall be numbered consecutively beginning with number one (1) of each fiscal year and shall be made in duplicate, the original and duplicate to bear the same serial number and be alike in all respects except that they be marked "original" and "duplicate" and shall be of different colors."

§ 27-17-493. Disposition of monies collected; privilege tax record to be kept.

Each officer authorized to issue privilege licenses shall keep a privilege tax register in such form as he shall determine, in which the names of all privilege taxpayers shall be recorded, showing the amount paid, the serial number of the license issued and the period covered by such license, the business licensed and the location thereof. This register shall be submitted to the county auditor, or in the case of a municipality to the governing body of the municipality by such officer at the end of each fiscal year or within twenty (20) days thereafter, when his final settlement shall be made. If the same be found correct and the amounts shown thereon to have been paid into the proper treasury, the county auditor or the proper officer of the municipality shall endorse the register "examined and found correct." This register shall constitute a permanent record of the officer authorized to collect privilege taxes and shall always be open for inspection by the public and the same shall be submitted to the grand jury by the keeper thereof whenever called for. At the same time when final settlement is made, as provided in this section, every officer shall return to the county auditor or to the governing body of the municipality in the case of municipalities all unused privilege tax license blanks and shall make a final settlement of his privilege tax accounts. The unused privilege tax license blanks shall be kept or electronically stored by the proper officer for three (3) years, at the expiration of which they may be destroyed or disposed of. On or before the twentieth day of January of the year in which the officer's term expires, each officer shall in like manner submit to the county auditor or in the case of municipalities to the governing body of the municipality his privilege tax register, together with itemized receipt signed by his successor in office properly certified by the county auditor or by the proper officer of the governing body of the municipality, setting forth by serial number all unused privilege tax license blanks on hand at the expiration of his term of office, and if the county auditor or the proper officer of the municipality shall find the same correct, he shall endorse the same, as hereinbefore provided, and shall charge such officer's successor in office with all unused privilege tax license blanks, which shall be accounted for by said successor in office in like manner. Any other officer shall make a like settlement upon the expiration of his term of office. All monies received by the officer authorized by law to issue privilege tax

licenses shall be deposited in the proper depository and shall be accounted for as provided by law.

HISTORY: Codes, 1942, § 9696-223; Laws, 1944, ch. 137, § 219, eff from and after June 1, 1944; Laws, 2018, ch. 357, § 3, eff from and after July 1, 2018.

Amendment Notes — The 2018 amendment inserted "or electronically stored" and "or disposed of" in the sixth sentence.